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CHARTERS

OF

THE OLD ENGLISH COLONIES

IN AMERICA.

A FIERCE SPIRIT OF LIBERTY HAS GROWN WITH THE GROWTH OF THE PEOPLE IN YOUR COLONIES, AND INCREASED WITH THE INCREASE OF THEIR WEALTH ; A SPIRIT THAT UNHAPPILY MEETING WITH AN EXERCISE OF POWER IN ENGLAND, WHICH, HOWEVER LAWFUL, IS NOT RECONCILEABLE TO ANY IDEAS OF LIBERTY, MUCH LESS WITH THEIRS, HAS KINDLED THIS FLAME, WHICH IS READY TO CONSUME US.

BURKE'S *Speech on Conciliation with America.*

*M. S. Bell Esq.
from the Author*

CHARTERS

OF

THE OLD ENGLISH COLONIES

IN AMERICA.

WITH

AN INTRODUCTION AND NOTES,

BY

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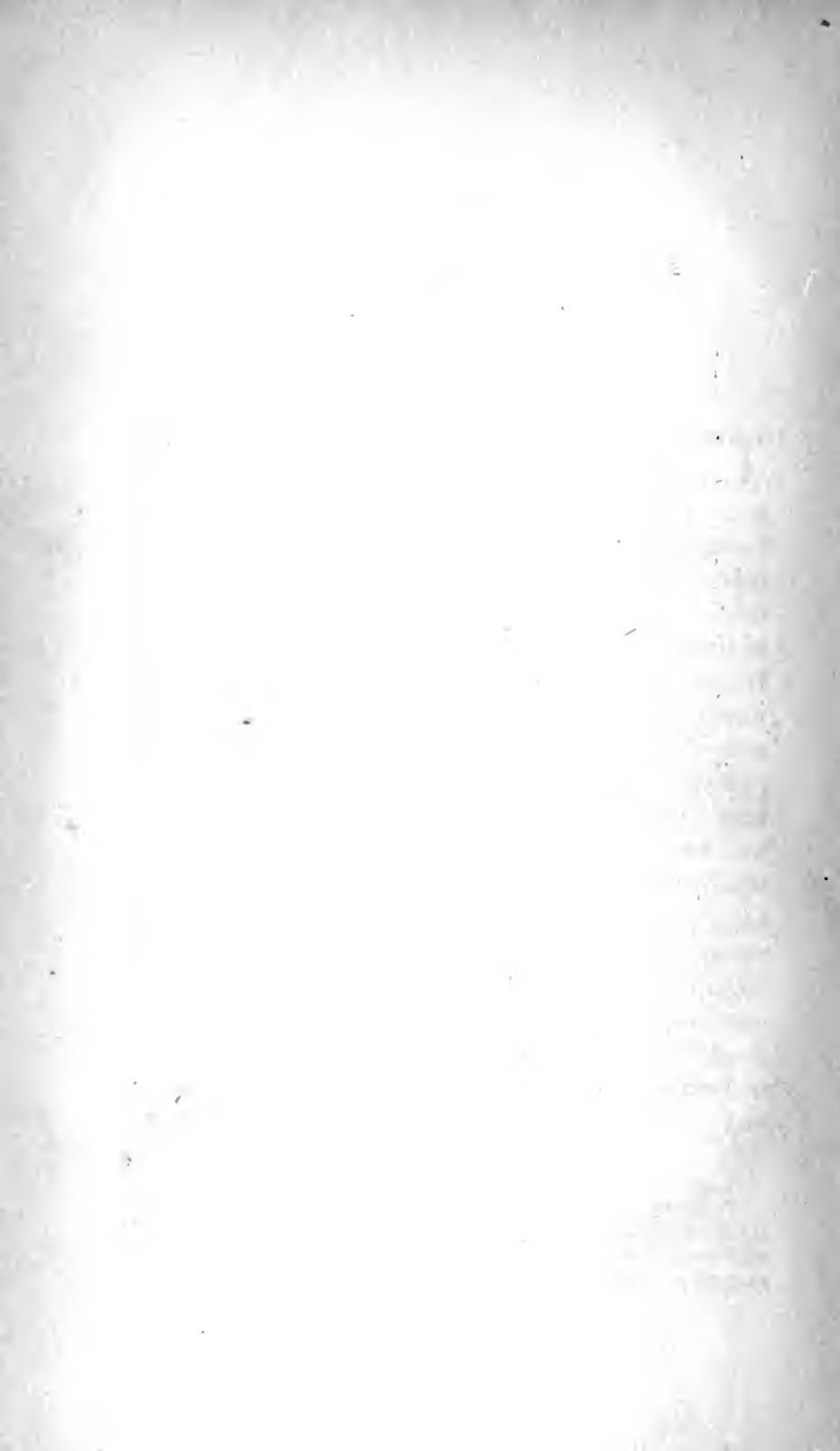
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INTRODUCTION.

THE present volume comprises ten of the Charters which were granted to our early American Colonies. The same Charters were originally collected by a bookseller, named Almon, at the close of the last century; but as his edition has become scarce, and is much sought after, they are now reprinted, with the addition of some explanatory statements and notes. It has not been thought necessary to add to their number, though many are wanting to complete the series,* inasmuch as Almon's edition contains the principal specimens of each class into which they have been appropriately distinguished. An attempt only has been made to improve upon Almon's method, who, to borrow a simile from Mr. Carlyle, edited them as you edit bricks, by tilting the wagon. Be the result as it may, it is necessarily imperfect, as the intention was conceived but a week or two since, in connexion with the question of Colonial misgovernment. The object was to furnish at a critical time materials for comparison between our present attempts, and the grandest and most successful colonizing opera-

* In fact, to the time of the founding of New South Wales, when the convict system involved the adoption by England of the centralized methods of France and Spain, a Colony had a Charter as an indispensable condition of its political existence.

tions which England, or, indeed, any other nation, ancient or modern, has ever accomplished. It is obviously not so much a perfect design, as a pressing want, which was here contemplated, and the value of the book should be estimated accordingly.

The want of such a work was, indeed, exemplified, a few nights back, in an eminent instance. When Lord John Russell made his exposition of the future Colonial policy of the Government, and when, for that purpose, he professed to review the past history of our Colonial possessions, it was remarkable that he never once alluded to those which were the earliest and greatest of all. As I could not impute to his Lordship for a moment the design of slipping over a difficulty, I can only conceive that he shared in the disability, which we have most of us commonly laboured under hitherto, of a want of familiarity with their most ancient records. Inasmuch as these are the key to their history, it is not to be wondered at that our leading statesmen have, as yet, been unable to appreciate its value.

The Charters themselves will be found most instructive, by showing, in the first place, the liberal terms upon which our ancestors commenced to colonize. At the outset, they acquired the rights and privileges of British born subjects—an extensive grant, when, according to the theory of those early times, these Colonies were assumed to be the property of the Crown. Under this provision, they at once obtained the benefit of the common law of England, with all its inferential rights and obligations; and though this incident is necessarily implied in the later and truer theory of state, which concludes that these Colonies were a part of the Empire, at that time, it behoves us

especially to remember it was conferred and received in the light of a boon.

‘In regard to the legislative power,’ says Story, ‘there was a still more extensive latitude allowed; for, notwithstanding the cautious reference in the Charters to the laws of England, the assemblies actually exercised the authority to abrogate every part of the common law, except that which united the Colonies to the parent state by the general ties of allegiance and dependency; and every part of the statute law, except those Acts of Parliament which expressly prescribed rules for the Colonies, and necessarily bound them, as integral parts of the Empire, in a general system, formed for all, and for the interest of all.’ Upon these comprehensive bases, then, on the one hand, the full, unqualified right to all the principles of the common law; and, on the other, the liberty to dispense with its provisions, as far as they were found unsuitable to their position, the whole of the Colonial Charters were founded.

x On the basis of these, the distinctive provisions of each Charter gave supplemental powers. In this respect the Charters may be divided into three classes—Provincial, Proprietary, and Municipal; the last designation only implying absolute powers of local self-government, as distinguished from such powers conferred with limitations.* Rhode Island and Con-

* My designation of ‘municipal,’ as a distinctive term, must be clearly understood as only employed from the wish to follow a strict terminology. There can be no doubt that the Colonial Charters, the Proprietary ones especially, were municipal in the very highest degree, short of that absolute absence of limitation under which this element existed in the charters of some of the New England States. In a political point of view they may be also *termed* municipal, inasmuch as this was their *principal* ingredient; but, legally speaking,

necticut are specimens of the Municipal, Maryland of the Proprietary, and Virginia of the Provincial class. Both in the Proprietary and Municipal Charters, the right of the people to be governed by laws established by a local legislature, in which they were represented, was not only sanctioned, but its exercise provided for. But in the one case, it was exercised, subject to the veto of the Proprietary, whose position resembled that of the Sovereign;* and, in the other, subject to the veto of a Governor of the Colonists' election, and to whom he was responsible. 'In the Provincial governments,' says Mr. Justice Story, 'it was often a matter of debate, whether the people had a *right* to be represented in the legislature, or whether it was a privilege enjoyed by the favour, and during the pleasure, of the Crown.' But the right, as a matter of fact, was maintained in opposition to the Crown and its legal advisers.

In all of the Colonies, sooner or later, local legislatures were established, *one* branch of which consisted of representatives of the people, freely chosen, to represent and defend their interests, and possessing a negative upon all laws.† At as early a period as 1619, a House of Burgesses was forced, says Robertson,

I have reserved the term for such only as were purely and strictly so, excluding entirely all other elements. I would especially guard, in the present place, from being supposed for a moment to impute the greatness of our Colonies, as contrasted with those of France and Spain, to any other element than the municipal spirit which was, in fact, the vivifying principle of their institutions, and which enabled us, moreover, to retain their loyalty, till, mistaking our functions, we attempted to quench it.

* In the Proprietary Charter of Pennsylvania, however, the laws were made subject to the Crown's supervision.

† See Story, i. 149, in the Constitution of the U.S.

upon the then reluctant proprietors of Virginia. In Massachusetts, Connecticut, New Hampshire, and Rhode Island, the same course was pursued ; and Mr. Hutchinson has observed, that all the Colonies, before the reign of Charles II., (Maryland alone excepted, whose Charter contained an express provision on the subject,) had settled a model of government for themselves, in which the people had a voice and representation in framing the laws, and in assenting to burthens to be imposed upon themselves. Story adds, that after the Restoration, there was no instance of a Colony without a representation of the people, nor any attempt to deprive the Colonies of this privilege, except during the brief and arbitrary reign of James II.

To revert, however, to the main position, the conclusion is, that under the Charters, if not strictly in pursuance of their provisions, the Colonies enjoyed ample powers of *self-government*, irrespective of the form which that government assumed. And even where they transgressed the limits of these Charters, which it must be admitted they did in numerous instances, and the occasion of which I shall estimate presently, it was so long a time before their acts were questioned, that they were permitted to conduct their first operations almost as if they had been practically independent. There is this peculiarity about the Charters themselves—that, as some of their preliminary recitals state, one of their objects was *to invite* emigration, and no greater inducement could be found to invite emigrants than the power conceded, expressly or tacitly, to manage their own affairs. There was another reason, indeed, for conceding it at their first origin, which Chalmers appreciates, though a strenuous

champion of imperial authority. Speaking of the earliest state of Virginia, he observes, 'It was impossible in those days, and it is more so in the present, for the Parliament to extend its legislative care to the various little wants of an *inconsiderable* colony; to the making of roads; the building of churches; to the affording of remedies for inconveniences which alteration of circumstances daily brought forth.'* The Parliament's disability, therefore, conspired with the policy of *inviting* emigration to the Colonies; and many of the Charters were thus obtained before the settlers departed from our shores. To use the phrase of the people of Massachusetts, they were 'settled' in the Colony with the Colonists themselves, and, taking root there, they grew with the settlement, extending with its limits and amplified by its necessities.

There is this other peculiarity about the Charters, that almost all of them conferred upon the Colonists a *larger* measure of freedom, political as well as religious, than England or Europe at that time enjoyed. What says Mons. de Tocqueville? 'Lorsque, après avoir ainsi jeté un regard rapide sur la société Américaine de 1650, on examine l'état de l'Europe, et particulièrement celui du continent vers cette même époque, on se sent pénétré d'un profond étonnement: sur le continent de l'Europe, au commencement du xvii^e siècle, triomphait de toutes parts la royauté absolue sur les débris de la liberté oligarchique et féodale du moyen âge. Dans le sein de cette Europe brillante et littéraire jamais peut-être l'idée des droits n'avait été plus complètement méconnue; jamais les peuples n'avaient moins reçu de la vie politique;

* *Annals*, i. 45.

jamais les notions de la vraie liberté n'avaient moins préoccupé les esprits, et c'est alors que ces mêmes principes, inconnus aux nations Européennes, ou méprisés par elles, étaient proclamés dans les déserts du Nouveau Monde, et devenaient le symbole futur d'un grand peuple.' To the aspect of society thus created, the '*point de depart*,' as Mons. de Tocqueville phrases it, I attribute that early elastic vigour which our American Colonies specially exhibited. It was this which *invited* emigration at a time when, excepting a temporary and partial persecution, there was infinitely less pressure outwards than now; and this, I confidently believe, was the cause, pre-eminent above others, of the same tendency which conducted that emigration to its prosperous issue.

If, however, I infer that the source of the greatness of our American Colonies was the municipal principle, no one, on the other hand, can entertain a doubt that the cause of their alienation was interference with its exercise. It is not possible, nor indeed is it necessary, to exhibit here the successive steps, from the attack on their Charters, in 1685, to the attempt to deprive them of the municipal right of self-taxation, which produced their revolt. But it is possible, and especially desirable, at the present moment, to state briefly by what instrumentality the process was wrought out which produced, in the first place, mutual aggressions, and ended at length in complete separation.

I say, then, with confidence, that a careful inquiry will be found to bear out the statement I make, that the primary cause of all the dissensions between this country and her American Colonies, was the absence of any clear distinction between her imperial, and their

municipal rights. Their early Charters, faulty in many respects, were especially so in this particular, that they left a wide and debateable ground between the local and imperial functions. Upon this ground, alternate inroads on either side produced irritation; and a sort of border-warfare was kept up, which naturally ended by bringing into collision the aggregate forces of each people, and involving them at length in implacable war.

The Charters, speaking generally, although, as I said before, they undoubtedly conferred extensive powers, had, nevertheless, this great anomaly: whereas some of their powers were granted in derogation of the Royal prerogative, or Imperial rights, others were conferred with some reservation of the rights which properly pertained to the colonists. The Crown conferred the right to levy war; on the other hand, as the Charter of Pennsylvania provided, it reserved a power of taxation to the Parliament. It abdicated its regalities in favour of a Proprietary, yet claimed to bind him by its fiscal regulations. There was thus a confusion in the Charters themselves of two powers essentially distinct; each intruded on the other's province, and so effaced the line of demarcation.

The exercise of powers which the Charters omitted, but which they ought to have contained, increased this confusion, as it obviously widened the debateable ground, on which the Colonies were compelled to trespass, in order to perfect their system of self-government. For instance, it is appositely mentioned by Neal, with respect to the first Massachusetts Charter, that when it was laid by the agents of Massachusetts before some of the best politicians and lawyers after the

Revolution,—Somers, Holt, Treby, Ward, &c., they thus remarked its defects: 'that being originally granted to a great company resident in England, it was wholly inapplicable to the circumstances of a distant colony, because it gave the body politic no more jurisdiction than had every other corporation within the kingdom; that no authority was conferred to call special assemblies, wherein should appear the delegates of the people, because representation was expressly excluded by the clause requiring the presence of the freemen in the general courts; that no permission was given to raise money, either on the colonists, or on strangers trading thither, because *the King* could not give an authority which he did not himself possess; that it did not enable the legislative body to erect various judicatories, either of admiralty, of probate of wills, or of chancery, because that required such a special grant as did not by these provisions exist.' Here, then, were various powers omitted which the Colonies afterwards had to appropriate, and these powers confessedly necessary to their own management of Colonial affairs.

The necessity under which they laboured, in such cases, of transgressing the strict limits of their Charters, tended, as I said, to increase the confusion. Supposing them void of all inclination to usurp the rightful functions of the empire, it was impossible that they should freely encroach on the waste without occupying territory which they were not entitled to. Unconsciously, I believe, in the majority of instances, they invaded the boundaries of the imperial domain. It is thus that I regard such acts, for example, as the Federal Union of the New England States in 1643; the treaty entered into, in 1644, by the Governor of

New England and a Commissioner for the King of France. The worst was, that acts of a similar nature induced proceedings to forfeit their Charters, and the Crown, for its error in what it had not, resumed what it had given, by way of reprisals.

The consequence of these mutual invasions is notorious. According to Chalmers, '*uncertainty of law* introduced that misery, and consequential feebleness, which every community, when placed in a similar situation, had felt; and the Colonies exhibited a state of society during the foregoing reign (that of George the First) unexampled in the annals of the world. Though the Royal instructions had denied the provincials mental freedom, by restraining the liberty of the Press—and personal freedom, by refusing them the writ of Habeas Corpus, they yet enjoyed an independence of thought and action beyond what the people of Britain exerted.' On the other hand, 'though the King was supposed to possess a prerogative in the Provinces superior to that which he might exercise within the kingdom, he had been gradually deprived, not only of political influence, but even of regal authority.'* Thus, neither right was adequately enjoyed, but the exercise of both was impeded and restrained, from their being entangled one with the other.

That the more sagacious men of the time were not blind to the inevitable consequences, I anticipate that numerous proofs may be found. One which I met with accidentally I produce here for its singular

* CHALMERS' *Introduction to the History of the Revolt of the Colonies*; a rare book, of which only six copies were printed, but which has been recently, I believe, republished in America.

clearness. I should premise that the book I am about to quote was the production of one Thomas Pownal, who was Governor and Commander-in-chief of Massachusetts, South Carolina, and New Jersey, about the middle of the eighteenth century, and who, coming to England, published a work on the administration of the Colonies some twenty years or more before the American revolt broke out. 'If the Colonies,' says he, 'are to be possessed as of right, and governed by the Crown as demesnes of the Crown by such charters, commissions, instructions, &c., as the Crown shall from time to time grant or issue, then a revision of these charters, commissions, instructions, so as to establish the rights of the Crown and the privileges of the people as thereby created, is *all that is necessary*. But while the Crown may perhaps justly, and of right, *in theory*, consider these lands and the plantations thereon as its demesnes, and as of special right properly belonging to it, not incorporated and of common right with the dominions and realm of Great Britain, in consequence of which theory special rights of the Crown are there established, and from which theory the special modification under which the people possess their privileges is derived—While this is the idea on the one hand, the people on the other say, that they could or not forfeit lose the common rights and privileges of Englishmen by adventures under various disasters and difficulties, under heavy expenses, and every hazard, to settle these vast countries, to engage in untried channels of labour, thereby increasing the nation's commerce, and extending its dominions; but that they must carry with them wherever they go, the right of being governed only by the laws of the realm—only by laws

made with their consent; that they must ever retain with them the right of not being taxed without their own consent or that of their representatives; and therefore, as it were by nature divided off from the share of the general representation of the nation, they do not hold by tenor of charter or temporary grant in a commission, but by an inherent essential right, the right of representation and legislature, with all its powers and privileges as possessed in England. It is therefore that the people do, and *ever will*, until this matter be settled, exercise these rights and privileges after the precedents formed here in England, and perhaps carried, in the application, even further than they ever were in England, and not under the restrictions of commissions and instructions; and it is therefore, also, in matters where laws, made since their establishment, do not extend to them by special proviso, that they claim the right of directing themselves by their own laws. While these totally different ideas of the principles, whereon the government and the people found their claims and rights, remain unsettled and undetermined, there can be nothing but discordant jarring and perpetual obstruction in the exercise of them, — there can be no government, properly so called, but merely the predominancy of one faction or the other, acting under the mask of the forms of government. *This is the short and precise abstract of the long and perplexed history of the governments and administrations of the Colonies under the various shapes with which their quarrels have vexed themselves and teased government here in Britain.*

The want, then, which Governor Pownall remarked, but urged on the English nation in vain, is precisely the want of the present hour, and to which I mean

my observations to point. That which is needed to preserve our Colonies is a broad demarcation of their rights from ours, a clear exemption from all control in the matters which solely regard themselves, with a supervision only on the part of the empire in matters strictly of imperial concernment. ‘*Improper* limitations of the local powers of a colony,’ says Mr. Wakefield, ‘if they were fixed by law so that every colonist should know exactly what they were, would be far preferable to the most proper limitations imposed from time to time arbitrarily, irregularly, and without warning.’ It is possible to make *proper*, as well as fixed limitations, as the experience of the United States has proved in the admirable harmony hitherto maintained between its federal and provincial constitutions. Yet at this moment, Crown lawyers disclaim the known capacity of their American brethren, and abandon us to that irregular contest which, as Pownall foresaw, will *ever* be carried on until the distinction is finally taken.

It is thought, in this light, essential to maintain (and this is the blot which I desire to hit) in the Bill for the Better Government of the Australian Colonies, an arbitrary control over the Colonial legislatures, and the general Assembly which it is proposed to constitute, retaining for this purpose the power of the veto without qualification, in the English Privy Council. Restraints are therefore imposed for a case in which they may be of the slightest importance, over an indefinitely vast number of other cases in which they are absolutely indifferent to us. On the other hand, the Colonies are told at the same time that they must still remain in a state of dependence in all which exclusively concerns them. To their great disgust and

mortification and weariness, we insist upon occupying an entire province, in which we have not the slightest business, in which our presence occasions to them uncertainty, vexatious delay, and irritation, without the least compensating benefit to ourselves, because we are too lazy to make a distinction, or too blind to perceive its pressing necessity.

That for which the following Charters are useful, coupled, indeed, with their historic corollaries, is just to show us the working of this. There are two lessons capable of extraction from most of the memorable contests of time; and we may learn one of them with our consent, or one without it. We are just at present at that critical point, that we are still hesitating which to choose. A spirit has met us on the threshold of the future, and offers, like the Roman from the folds of his mantle, the old alternatives—Peace or War. We may either select betimes for ourselves, or leave the choice to others hereafter. Either we may maintain the imperial unity, by liberating the Colonies from our municipal control, or, in evil hour, we may leave them to infer that their only chance of municipal freedom is through the ~~exercise~~ of their imperial independence.

avenue

Inner Temple, Feb. 1850.

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avenue
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Inner Temple, Feb. 1850.

VIRGINIA CHARTERS.

THE first of these Charters was granted by James, in the year 1606. Eleven years before, in 1585, an attempt had been made by Sir Richard Grenville, under the auspices of Sir Walter Raleigh, to establish a colony at Roanoak. But this and the attempts to maintain it having failed, and the voyage of Gosnold in the last year of Elizabeth having brought good reports of another district—which reports were confirmed by subsequent navigators—an association was formed to found a settlement elsewhere. The attention of King James was so favourably directed to the advantages attending the plantation of colonies, in consequence of certain experiments of his own in the Highlands (see Robertson's *Hist. of Scotland*), that he readily hearkened to the applications which were made to him, and accordingly issued his letters patent to Sir Thomas Gates, Sir George Somers, and their associates, for two several colonies and plantations *to be made in Virginia* (which at that time had a wider signification than at present) *and other parts and territories in America*. These letters patent, dated April 10, 1606, and usually denominated the First Virginia Charter, are now given as follows, *in extenso* :—

CHARTER No. I.

I. JAMES, by the grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. Whereas our loving and well disposed subjects, Sir Thomas Gates, and Sir George Somers, Knights, Richard Hackluit, Clerk, Prebendary of Westminster, and Edward-Maria Wingfield, Thomas Hanham, and Raleigh Gilbert, Esqrs., William Parker, and George Popham, Gentlemen, and divers others of our loving subjects, have been humble suitors unto us, that we would vouchsafe unto them our licence, to make habitation, plantation, and to deduce a colony of sundry of our people into that part of America, commonly called Virginia, and other parts and territories in America, either appertaining unto us, or which are not now actually possessed by any Christian prince or people, situate, lying, and being all along the sea coasts, between four-and-thirty degrees of northerly latitude from the equinoctial line, and five-and-forty degrees of the same latitude, and in the main land between the same four-and-thirty and five-and-forty degrees, and the islands thereunto adjacent, or within one hundred miles of the coast thereof.

II. And to that end, and for the more speedy accomplishment of their said intended plantation and habitation there, are desirous

to divide themselves into two several colonies and companies : the one consisting of certain knights, gentlemen, merchants, and other adventurers, of our city of London and elsewhere, which are, and from time to time shall be, joined unto them, which do desire to begin their plantation and habitation in some fit and convenient place, between four-and-thirty and one-and-forty degrees of the said latitude, along the coasts of Virginia and coasts of America aforesaid ; and the other consisting of sundry knights, gentlemen, merchants, and other adventurers, of our cities of Bristol and Exeter, and of our town of Plymouth, and of other places, which do join themselves unto that colony, which do desire to begin their plantation and habitation in some fit and convenient place, between eight-and-thirty degrees and five-and-forty degrees of the said latitude, all along the said coast of Virginia and America, as that coast lieth.

III. We, greatly commending, and graciously accepting of, their desires for the furtherance of *so noble a work, which may, by the providence of Almighty God, hereafter tend to the glory of his divine Majesty, in propagating of christian religion to such people, as yet live in darkness and miserable ignorance of the true knowledge and worship of God, and may in time bring the infidels and savages, living in those parts, to human civility, and to a settled and quiet government :* Do, by these our letters patents, graciously accept of, and agree to, their humble and well intended desires.

Grant to
the London
company of
liberty to
settle any
where on
the coast of
North
America,
between lat.
34° and lat.
41° ;

and of the
sea coast
near their
place of set-
tlement to
the distance
of 50 miles
from it each
way, and to
the depth of
100 miles
into the
main land

IV. And do therefore, for us, our heirs and successors, grant and agree, that the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, and Edward-Maria Wingfield, adventurers of and for our city of London, and all such others, as are, or shall be, joined unto them of that colony, shall be called the first colony ; and they shall and may begin their said first plantation and habitation, at any place upon the said coast of Virginia or America, where they shall think fit and convenient, between the said four-and-thirty and one-and-forty degrees of the said latitude ; and that they shall have all the lands, woods, soil, grounds, havens, ports, rivers, mines, minerals, marshes, waters, fishings, commodities, and hereditaments, whatsoever, from the said first seat of their plantation and habitation by the space of fifty miles of English statute measure, all along the said coast of Virginia and America, towards the west and south-west, as the coast lieth, with all the islands within one hundred miles directly over against the same sea coast ; and also all the lands, soil, grounds, havens, ports, rivers, mines, minerals, woods, waters, marshes, fishings, commodities, and hereditaments, whatsoever, from the said place of their first plantation and habitation for the space of fifty like English miles, all along the said coasts of Virginia and America, towards the east and north-east, or towards the north, as the coast lieth, together with all the islands within one hundred miles, directly over against the said sea coast ; and also all the lands, woods, soil, grounds, havens, ports, rivers, mines, minerals, marshes, waters, fishings, commodities, and hereditaments, whatsoever, from the same fifty miles every way on the sea coast,

directly into the main land by the space of one hundred like English miles; and shall and may inhabit and remain there; and shall and may also build and fortify within any the same, for their better safeguard and defence, according to their best discretion, and the discretion of the Council of that colony; and that no other of our subjects shall be permitted, or suffered, to plant or inhabit behind, or on the backside of them, towards the main land, without the express licence or consent of the Council of that colony, thereunto in writing first had and obtained.

V. And we do likewise, for us, our heirs, and successors, by these presents, grant and agree, that the said Thomas Hanham, and Raleigh Gilbert, William Parker, and George Popham, and all others of the town Plymouth in the county of Devon, or elsewhere, which are, or shall be, joined unto them of that colony, shall be called the second colony; and that they shall and may begin their said plantation and seat of their first abode and habitation, at any place upon the said coast of Virginia and America, where they shall think fit and convenient, between eight-and-thirty degrees of the said latitude, and five-and-forty degrees of the same latitude; and that they shall have all the lands, soils, grounds, havens, ports, rivers, mines, minerals, woods, marshes, waters, fishings, commodities, and hereditaments, whatsoever, from the first seat of their plantation and habitation by the space of fifty like English miles, as is aforesaid, all along the said coasts of Virginia and America, towards the west and south-west, or towards the south, as the coast lieth, and all the islands within one hundred miles, directly over against the said sea coast; and also all the lands, soils, grounds, havens, ports, rivers, mines, minerals, woods, marshes, waters, fishings, commodities, and hereditaments, whatsoever, from the said place of their first plantation and habitation for the space of fifty like English miles, all along the said coast of Virginia and America, towards the east and north-east, or towards the north, as the coast lieth, and all the islands also within one hundred miles directly over against the same sea coast; and also all the lands, soils, grounds, havens, ports, rivers, woods, mines, minerals, marshes, waters, fishings, commodities, and hereditaments, whatsoever, from the same fifty miles every way on the sea coast, directly into the main land, by the space of one hundred like English miles; and shall and may inhabit and remain there: and shall and may also build and fortify within any the same for their better safeguard, according to their best discretion, and the discretion of the Council of that colony; and that none of our subjects shall be permitted, or suffered, to plant or inhabit behind, or on the back of them, towards the main land, without the express licence of the Council of that colony, in writing thereunto first had and obtained.

Grant to the Plymouth company of liberty to settle any where on the coast of North America, between lat. 38° and lat. 45°:

and of the sea coast near their place of settlement to the distance of 50 miles from it each way, and to the depth of 100 miles into the main land.

Provided that the settlements that shall be last made shall be more than 100 miles distant from the first.

VI. Provided always, and our will and pleasure herein is, that the plantation and habitation of such of the said colonies, as shall last plant themselves, as aforesaid, shall not be made within one hundred like English miles of the other of them, that first began to make their plantation, as aforesaid.

Each of these colonies shall be governed by a council of 13 persons appointed by the king;

these councils shall have seals.

A superior council of 13 persons residing in England, appointed by the king.

Liberty to work all mines of

VII. And we do also ordain, establish, and agree, for us, our heirs, and successors, that each of the said colonies shall have a council, which shall govern and order all matters and causes, which shall arise, grow, or happen, to or within the same several colonies, according to such laws, ordinances, and instructions, as shall be, in that behalf, given and signed with our hand or sign manual, and pass under the privy seal of our realm of England; each of which Councils shall consist of thirteen persons, to be ordained, made, and removed, from time to time, according as shall be directed and comprised in the same instructions;* and shall have a several seal, for all matters that shall pass or concern the same several Councils; each of which seals shall have the king's arms engraven on the one side thereof, and his portraiture on the other; and that the seal for the Council of the said first colony shall have engraven round about, on the one side, these words; *Sigillum Regis Magnæ Britannia, Francia, & Hibernia*; on the other side, this inscription, round about; *Pro Concilio primæ Colonia Virginiae*. And the seal for the Council of the said second colony shall also have engraven round about the one side thereof, the aforesaid words; *Sigillum Regis Magnæ Britannia, Francia, & Hibernia*; and on the other side; *Pro Concilio secundæ Colonia Virginiae*.

VIII. And that also there shall be a Council established here in England, which shall, in like manner, consist of thirteen persons, to be, for that purpose, appointed by us, our heirs and successors, which shall be called our Council of Virginia; and shall, from time to time, have the superior managing and direction, only of and for all matters that shall or may concern the government, as well of the said several colonies, as of and for any other part or place, within the aforesaid precincts of four-and-thirty and five-and-forty degrees, above-mentioned; which Council shall, in like manner, have a seal for matters concerning the Council or colonies, with the like arms and portraiture, as aforesaid, with this inscription, engraven round about on the one side; *Sigillum Regis Magnæ Britannia, Francia, & Hibernia*; and round about the other side, *Pro Concilio suo Virginiae*.

IX. And moreover, we do grant and agree, for us, our heirs and successors, that the said several Councils, of and for the said several colonies, shall and lawfully may, by virtue hereof,

* In pursuance of this clause, King James prepared a constituent code of laws for the settlements; and this must be taken to be incorporated in the Charter, if inquiry be made as to its practical operation. King James, it is clear, as Grahame suggests, had a more genuine purpose of colonization than the patentees. As a part of his code, he conferred legislative and executive functions within the Colonies on the provincial councils; but with this controlling provision, that laws originating there should in substance be consonant to the English laws; that they should continue in force only till modified or repealed by the king or the supreme council in England; and that their penal inflictions should not extend to death or demembration. But the power thus conferred, though under these restrictions, was afterwards confined within closer limits by clause 8 of the following Charter, which was procured at the express desire of the patentees. The inexpediency of the change was ultimately illustrated by the necessity which obliged Sir George Yeardley, in 1619, to re-establish this power on a more liberal basis. The changes he introduced are referred to on page 29.

from time to time, without any interruption of us, our heirs or successors, give and take order, to dig, mine, and search for all manner of mines of gold, silver, and copper, as well within any part of their said several colonies, as of the said main lands on the backside of the same colonies; and to have and enjoy the gold, silver, and copper, to be gotten, thereof, to the use and behoof of the same colonies, and the plantations thereof; yielding therefore, to us, our heirs and successors, the fifth part only of all the same gold and silver, and the fifteenth part of all the same copper, so to be gotten or had, as is aforesaid, without any other manner of profit or account, to be given or yielded to us, our heirs or successors, for or in respect of the same.

gold and silver in said colonies, paying to the king a fifth part of the gold and silver, and a fifteenth of the copper.

X. And that they shall, or lawfully may, establish and cause to be made a coin, to pass current there between the people of those several colonies, for the more ease of traffic and bargaining between and amongst them and the natives there, of such metal, and in such manner and form, as the said several Councils there shall limit and appoint.

Power to establish coins for those colonies.

XI. And we do likewise, for us, our heirs, and successors, by these presents, give full power and authority to the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, Edward-Maria Wingfield, Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and to every of them, and to the said several companies, plantations, and colonies, that they, and every of them, shall and may, at all and every time and times hereafter, have, take, and lead in the said voyage, and for and towards the said several plantations and colonies, and to travel thitherward, and to abide and inhabit there, in every the said colonies and plantations, such and so many of our subjects, as shall willingly accompany them, or any of them, in the said voyages and plantations; with sufficient shipping, and furniture of armour, weapons, ordnance, powder, victual, and all other things, necessary for the said plantations, and for their use and defence there: Provided always, that none of the said persons be such, as shall hereafter be specially restrained by us, our heirs, or successors.

Power to carry out the king's subjects to settle the said colonies.

XII. Moreover, we do, by these presents, for us, our heirs, and successors, give and grant licence unto the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, Edward-Maria Wingfield, Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and to every of the said colonies, that they, and every of them, shall and may, from time to time, and at all times for ever hereafter, for their several defences, encounter, expulse, repel, and resist, as well by sea as by land, by all ways and means whatsoever, all and every such person and persons, as without the especial licence of the said several colonies and plantations, shall attempt to inhabit within the said several precincts and limits of the said several colonies and plantations, or any of them, or that shall enterprise or attempt, at any time hereafter, the hurt, detriment, or annoyance, of the said several colonies or plantations.

Power to resist and expel all intruders into the said colonies.

XIII. Giving and granting, by these presents, unto the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, Edward-

Power to raise two and a half

per cent.
upon all
goods im-
ported
thither by
the king's
subjects, and
5 per cent.
upon those
imported by
strangers.

Maria Wingfield, and their associates of the said first colony, and unto the said Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and their associates of the said second colony, and to every of them, from time to time, and at all times for ever hereafter, power and authority to take and surprise, by all ways and means whatsoever, all and every person and persons, with their ships, vessels, goods, and other furniture, which shall be found trafficking, into any harbour or harbours, creek or creeks, or place, within the limits or precincts of the said several colonies and plantations, not being of the same colony, until such time, as they, being of any realms or dominions under our obedience, shall pay, or agree to pay, to the hands of the treasurer of that colony, within whose limits and precincts they shall so traffic, two and a half upon every hundred, of anything so by them trafficked, bought or sold; and being strangers, and not subjects under our obeysance, until they shall pay five upon every hundred, of such wares and merchandizes, as they shall traffic, buy, or sell, within the precincts of the said several colonies, wherein they shall so traffic, buy, or sell, as aforesaid; which sums of money, or benefit, as aforesaid, for and during the space of one-and-twenty years, next ensuing the date hereof, shall be wholly employed to the use, benefit, and behoof of the said several plantations, where such traffic shall be made; and after the said one-and-twenty years ended, the same shall be taken to the use of us, our heirs, and successors, by such officers and ministers, as by us, our heirs, and successors, shall be thereunto assigned or appointed.

Liberty to
carry goods
into the said
Colonies
from the
King's
other domi-
nions free
from custom
for 7 years.

XIV. And we do further by these presents, for us, our heirs and successors, give and grant unto the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, and Edward-Maria Wingfield, and to their associates of the said first colony and plantation, and to the said Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and their associates of the said second colony and plantation, that they, and every of them, by their deputies, ministers, and factors, may transport the goods, chattels, armour, munition, and furniture, needful to be used by them, for their said apparel, food, defence, or otherwise, in respect of the said plantations, out of our realms of England and Ireland, and all other our dominions, from time to time, for and during the time of seven years, next ensuing the date hereof, for the better relief of the said several colonies and plantations, without any custom, subsidy, or other duty, unto us, our heirs, or successors, to be yielded or paid for the same.

General de-
nization of
all such per-
sons as shall
be born in
those Colo-
nies.

XV. Also we do, for us, our heirs, and successors, declare, by these presents, that all and every the persons, being our subjects, which shall dwell and inhabit within every or any of the said several colonies and plantations, and every of their children, which shall happen to be born within any the limits and precincts of the said several colonies and plantations, shall have and enjoy all liberties, franchises, and immunities, within any of our other dominions, to all intents and purposes, as if they had been abiding and born within this our realm of England, or any other of our said dominions.*

* According to Grahame, this provision of clause 15 (whether suggested by the caution of the Prince or the apprehension of the Colonists) occurs in almost

XVI. Moreover, our gracious will and pleasure is, and we do, by these presents, for us, our heirs, and successors, declare and set forth, that if any person or persons, which shall be of any of the said colonies and plantations, or any other which shall traffic to the said colonies and plantations, or any of them, shall, at any time or times hereafter, transport any wares, merchandizes, or commodities, out of any of our dominions, with a pretence to land, sell, or otherwise dispose of the same, within any the limits and precincts of any the said colonies and plantations, and yet nevertheless, being at sea, or after he hath landed the same within any of the said colonies and plantations, shall carry the same into any other foreign country, with a purpose there to sell or dispose of the same, without the licence of us, our heirs and successors, in that behalf first had and obtained; that then, all the goods and chattels of such person or persons, so offending and transporting, together with the said ship or vessel, wherein such transportation was made, shall be forfeited to us, our heirs and successors.

Persons who, under pretence of trading to these Colonies, shall send goods into foreign countries, shall forfeit their ships and goods.

XVII. Provided always, and our will and pleasure is, and we do hereby declare to all christian kings, princes and states, that if any person or persons, which shall hereafter be of any of the said several colonies and plantations, or any other, by his, their, or any of their licence and appointment, shall, at any time or times hereafter, rob or spoil, by sea or by land, or do any act of unjust and unlawful hostility, to any the subjects of us, our heirs, or successors, or any the subjects of any king, prince, ruler, governor, or state, being then in league or amity with us, our heirs, or successors, and that upon such injury, or upon just complaint of such prince, ruler, governor, or state, or their subjects, We, our heirs, or successors, shall make open proclamation within any of the ports of our realm of England, commodious for that purpose, that the said person or persons, having committed any such robbery or spoil, shall, within the term to be limited by such proclamations, make full restitution or satisfaction of all such injuries done, so as the said prince, or others, so complaining, may hold themselves fully satisfied and contented; and, that if the said person or persons, having committed such robbery or spoil, shall not make, or cause to be made, satisfaction accordingly, within such time so to be limited, that then it shall be lawful to us, our heirs, and successors, to put the said person or persons, having committed such robbery or spoil, and their procurors, abettors, or comforters, out of our allegiance and protection; and that it shall be lawful and free, for all princes and others, to pursue with hostility the said offenders, and every of them, and their and every of their procurors, aiders, abettors, and comforters in that behalf.

Provision in case any of the inhabitants of these Colonies shall rob or injure any other of the King's subjects, or the subjects of any Prince or State in amity, with England.

all the Colonial Charters. It is, however, omitted in the most elaborate of them all, the Charter of Pennsylvania, which was attentively revised and adjusted by that eminent lawyer, the Lord Keeper Guildford. When King William was about to renew the Charter of Massachusetts, after the British Revolution, he was advised by the ablest lawyers in England that such a provision was nugatory; the law necessarily inferring (they declared) that the Colonists were Englishmen, and both entitled to the rights and obliged to the duties attached to that character.—CHALMERS'S *Annals*.

Promise to grant the lands that shall be occupied by the first colony, to such persons as shall be appointed for that purpose by the Council of that Colony.

XVIII. And finally, We do, for us, our heirs and successors, grant and agree, to and with the said Sir Thomas Gates, Sir George Somers, Richard Hackluit, and Edward-Maria Wingfield, and all others of the said first colony, that We, our heirs and successors, upon petition in that behalf to be made, shall, by letters patent under the great seal of England, give and grant, unto such persons, their heirs and assigns, as the council of that colony, or the most part of them, shall, for that purpose, nominate and assign, all the lands, tenements, and hereditaments, which shall be within the precincts limited for that colony, as is aforesaid, to be holden of us, our heirs, and successors, as of our manor of East-Greenwich, in the county of Kent, in free and common soccage only, and not in capite :

The like promise with respect to the lands that shall be occupied by the second colony.

XIX. And do in like manner, grant and agree, for us, our heirs, and successors, to and with the said Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, and all others of the said second colony, that We, our heirs, and successors, upon petition in that behalf to be made, shall by letters patent, under the great seal of England, give and grant unto such persons, their heirs and assigns, as the council of that colony, or the most part of them, shall, for that purpose, nominate and assign, all the lands, tenements, and hereditaments, which shall be within the precincts limited for that colony, as is aforesaid, to be holden of us, our heirs, and successors, as of our manor of East-Greenwich, in the county of Kent, in free and common soccage only, and not in capite.

XX. All which lands, tenements, and hereditaments, so to be passed by the said several letters patent, shall be sufficient assurance from the said patentees, so distributed and divided amongst the undertakers for the plantation of the said several colonies, and such as shall make their plantations in either of the said several colonies, in such manner and form, and for such estates, as shall be ordered and set down by the council of the said colony, or the most part of them, respectively, within which the same lands, tenements, and hereditaments shall lie or be; although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants, by us, or any of our progenitors or predecessors, to the aforesaid Sir Thomas Gates, Knight, Sir George Somers, Knight, Richard Hackluit, Edward-Maria Wingfield, Thomas Hanham, Raleigh Gilbert, William Parker, and George Popham, or any of them, heretofore made, in these presents, is not made; or any statute, act, ordinance or provision, proclamation or restraint, to the contrary hereof had, made, ordained, or any other thing, cause, or matter whatsoever, in any wise notwithstanding. In witness whereof, we have caused these our letters to be made patents; witness ourself at Westminster, the tenth day of April, in the fourth year of our reign of England, France, and Ireland, and of Scotland the nine-and-thirtieth.

L U K I N.

Per breve de privato Sigillo.

THE foregoing Charter, then, was a provincial Charter, by which, overlooking the less important clauses, the provision for political government was this:—Each colony was to be governed by a Local Council, appointed and removable according to Royal instructions; while these Councils were at the same time to be under the superior management and control of another Council sitting in England. It obviously, therefore, depended on the nature of the instructions, their particularity and permanence, as to what voice the colonists should have in the management of their affairs. At first, as already mentioned with respect to clause 7, the King was prepared to treat them with liberality.

In virtue of this Charter, then, the London Company applied themselves to the formation of a settlement forthwith. In December, 1606, three small vessels, under the command of Captain Newport, sailed with a hundred and five men, who were destined to remain in the settlement they established. 'Several of these emigrants were members of distinguished families—particularly George Percy, a brother of the Earl of Northumberland; and several were officers of reputation, of whom we may mention Bartholomew Gosnold the navigator, and Captain John Smith, one of the most distinguished ornaments of an age that was prolific of memorable men.'* The colony was at first thrown into confusion in consequence of the 'ostentatious mystery' which forbade the commission containing the names of the Provincial Council (and which was also issued in accordance with clause 7 of the Charter) to be opened until after the arrival of the colonists. Subsequently, the tendency to injudicious appointments, where the colonists themselves have no control over them, was remarkably illustrated in the case of the President, who, after exposing the colonists to danger and distress by his jealous suspicions, combined with his incompetence, was accused of embezzling the public stores, and finally detected in an attempt to seize a pinnace, and escape from the colony and its calamities. The influence, however, of Captain Smith with the colonists, resulting from the force of his genius and character, added to the ascendancy he gained over the Indians, partly through the romantic attachment of Pocahontas, enabled him to make up for the faults of his predecessor. Having been chosen President of the Council, he exerted his authority so vigorously and judiciously, that a spirit of order and industry began generally to prevail. According to the statement of Dr. Russell, a colonist, scarcity was banished through his influence with the Indians; danger averted or gallantly encountered; and the plots formed against him signally frustrated, without either straining or compromising his authority. According to Grahame, 'in a small society where no great inequality of accommodation could exist, where power derived no aid from pomp, circumstance, or mystery, and *where he owed his office to the appointment of his associates, and held it by the tenure of their good will*, he preserved order and enforced morality among a crew of dissolute

* Grahame.

and disappointed men.' But his administration, he adds, was unacceptable to the Company in England, for the same reasons that rendered it beneficial to the settlers. The patentees were engaged in a speculation merely, and the improving state of society in the settlement promoted habits and interests incompatible with their desires. On this account, according to Smith himself, they conceived it necessary to resume into their hands the authority at that time vested in the colonists, and to abolish all jurisdiction originating in America. This was the inducement for the new Charter, which was granted March 23, 1609, in order to obtain which the Company had fortified its pretensions by the acquisition of many additional associates. It is said with respect to this Charter, by Story, that it contains 'no important change in its substantial provisions as to the civil or political rights of the colonists.' But it is impossible to read its eighth, thirteenth, fourteenth, and fifteenth clauses without perceiving a change of the most important character, as against the colonists, was both intended and promoted. It is true, according to the expressions used in the celebrated case of *Johnson v. McIntosh*, 8 Wheat. 543, that this was 'a new and more enlarged Charter.' But it was only so as in favour of the London Company; as respects the colonists, it was an abridgment of their privileges, and it was granted, moreover, in disregard of the rights of those of them who had emigrated on the faith of the preceding one. The following are its provisions:—

CHARTER NO. II.

I. JAMES, by the Grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c. To all, to whom these presents shall come, greeting. Whereas, at the humble suit and request of sundry of our loving and well-disposed subjects, intending to deduce a colony, and to make habitation and plantation of sundry of our people, in that part of America commonly call'd Virginia, and other parts and territories in America, either appertaining unto Us, or which are not actually possessed of any Christian Prince or people, within certain bounds and regions, We have formerly, by our letters patents, bearing date the tenth day of April, in the fourth year of our reign of England, France, and Ireland, and of Scotland the nine-and-thirtieth, granted to Sir Thomas Gates, Sir George Somers, and others, for the more speedy accomplishment of the said plantation and habitation, that they should divide themselves into two colonies (the one consisting of divers knights, gentlemen, merchants, and others, of our city of London, called the first colony; and the other consisting of divers knights, gentlemen, and others, of our cities of Bristol, Exeter, and town of Plymouth, and other places, called the second colony); and have yielded and granted many and sundry privileges and liberties to each colony, for their quiet settling and good government therein, as by the said letters patents more at large appeareth.

II. Now, forasmuch as divers and sundry of our loving subjects, as well adventurers, as planters, of the said first colony, which have already engaged themselves in furthering the business of the said colony and plantation, and do further intend, by the assistance of Almighty God, to prosecute the same to a happy end, have of late been humble suitors unto Us, that (in respect to their great charges and the adventure of many of their lives, which they have hazarded in the said discovery and plantation of the said country) We would be pleased to grant them a further enlargement and explanation of the said grant, privileges, and liberties, and that such Counsellors and other officers may be appointed amongst them, to manage and direct their affairs, as are willing and ready to adventure with them, as also whose dwellings are not so far remote from the city of London, but that they may, at convenient times, be ready at hand to give their advice and assistance, upon all occasions requisite.

III. We, greatly affecting the effectual prosecution and happy success of the said plantation, and commending their good desires therein, for their further encouragement in accomplishing so excellent a work, much pleasing to God, and profitable to our kingdom, do, of our especial grace, and certain knowledge, and mere motion, for Us, our heirs, and successors, give, grant, and confirm, to our trusty and well-beloved subjects, Robert, Earl of Salisbury, Thomas, Earl of Suffolk, Henry, Earl of Southampton, and others (including, according to Grahame's enumeration, twenty-one peers, ninety-eight knights, and a great multitude of doctors, esquires, gentlemen, merchants, and citizens, and sundry of the corporations of London, in addition to the former adventurers; in all, occupying more than six pages of Almon's edition); and to such, and so many, as they do, or shall hereafter, admit to be joined with them, in form hereafter in these presents, expressed, whether they go in their persons, to be planters there in the said plantation, or whether they go not, but adventure their monies, goods, or chattels; that they shall be one body or commonalty perpetual, and shall have perpetual succession, and one common seal, to serve for the said body or commonalty: and that they, and their successors, shall be known, called, and incorporated by the name of, The Treasurer and Company of Adventurers and Planters for the City of London for the first Colony in Virginia.

Incorporation of the London or first Colony, by the name of The Treasurer and Company of adventurers and planters of the City of London, for the first Colony in Virginia.

Name of the corporation.

IV. And that they, and their successors, shall be, from henceforth, for ever enabled to take, acquire, and purchase, by the name aforesaid (licence for the same, from us, our heirs or successors, first had and obtained) any manner of lands, tenements, and hereditaments, goods, and chattels, within our realm of England, and dominion of Wales.

Capacity to purchase lands in England;

V. And that they, and their successors, shall likewise be enabled, by the name aforesaid, to plead and be impleaded, before any of our judges or justices, in any of our courts, and in any actions or suits whatsoever.

and to sue and be sued.

VI. And we do also, of our special grace, certain knowledge, and mere motion, give, grant, and confirm, unto the said treasurer and company, and their successors, under the reservations, limita-

Grant of land in America to

the said
treasurer
and com-
pany.

tions, and declarations, hereafter expressed, all those lands, countries, and territories, situate, lying, and being, in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the sea coast, to the northward two hundred miles, and from the said point of Cape Comfort, all along the sea coast, to the southward two hundred miles, and all that space and circuit of land, lying from the sea coast of the precinct aforesaid, up into the land, throughout from sea to sea, west and north-west; and also all the islands, lying within one hundred miles, along the coast of both seas of the precinct aforesaid; together with all the soils, grounds, havens, and ports, mines, as well royal mines of gold and silver, as other minerals, pearls, and precious stones, quarries, woods, rivers, waters, fishings, commodities, jurisdictions, royalties, privileges, franchises, and preeminences, within the said territories, and the precincts thereof, whatsoever, and thereto and thereabouts, both by sea and land, being, or in any sort belonging or appertaining, and which we, by our letters patents, may or can grant, in as ample manner and sort, as we, or any our noble progenitors, have heretofore granted to any company, body politic or corporate, or to any adventurer, or adventurers, undertaker, or undertakers, of any discoveries, plantations, or traffic, of, in or into any foreign parts whatsoever, and in as large and ample manner, as if the same were herein particularly

Habendum.

mentioned and expressed: To have and to hold, possess and enjoy, all and singular the said lands, countries, and territories, with all and singular other the premises, heretofore by these presents granted, or mentioned to be granted, to them, the said treasurer and company, their successors and assigns for ever; to the sole and proper use of them, the said treasurer and company, their

Tenendum.

successors and assigns for them: To be holden of us, our heirs, and successors, as of our manor of East-Greenwich, in free and

Redendum.

common socage, and not in capite; Yielding, and paying, therefore, to us, our heirs, and successors, the fifth part only of all ore of gold and silver, that from time to time, and at all times hereafter, shall be there gotten, had or obtained, for all manner of services.

Power in
said trea-
surer and
company to
convey and
assign under
their com-
mon seal,
particular
portions of
the land
hereby
granted to
the com-
pany to par-
ticular
planters or
adventurers.

VII. And nevertheless, our will and pleasure is, and we do, by these presents, charge, command, warrant, and authorise, that the said treasurer and company, or their successors, or the major part of them, which shall be present and assembled for that purpose, shall, from time to time, under their common seal, distribute, convey, assign, and set over, such particular portions of lands, tenements, and hereditaments, by these presents, formerly granted, unto such our loving subjects, naturally born, or denizens, or others, as well adventurers as planters, as by the said company (upon a commission of survey and distribution, executed and returned for that purpose) shall be nominated, appointed, and allowed; wherein our will and pleasure is, that respect be had, as well of the proportion of the adventurer, as to the special service, hazard, exploit, or merit of any person, so to be recompensed, advanced, or rewarded.

Establish-
ment of a

VIII. And forasmuch, as the good and prosperous success of the said plantation cannot but chiefly depend, next under the

blessing of God, and the support of our royal authority, upon the provident and good direction of the whole enterprise, by a careful and understanding council, and that it is not convenient, that all the adventurers shall be so often drawn to meet and assemble, as shall be requisite for them to have meetings and conference about the affairs thereof; therefore we do ordain, establish, and confirm, that there shall be perpetually one council here resident, according to the tenour of our former letters patents; which council shall have a seal, for the better government and administration of the said plantation, besides the legal seal of the company or corporation, as in our former letters patents is also expressed.

IX. And farther, we establish and ordain, that Henry, Earl of Southampton, William, Earl of Pembroke, Henry, Earl of Lincoln, Thomas, Earl of Exeter, Robert, Lord Viscount Lisle, Lord Theophilus Howard, James, Lord Bishop of Bath and Wells, Edward, Lord Zouche, Thomas, Lord Lawarr, William, Lord Monteagle, Edmund, Lord Sheffield, Grey, Lord Chandois, John, Lord Stanhope, George, Lord Carew, Sir Humfrey Weld, Lord Mayor of London, Sir Edward Cecil, Sir William Wade, Sir Henry Nevil, Sir Thomas Smith, Sir Oliver Cromwell, Sir Peter Manwood, Sir Thomas Challoner, Sir Henry Hobert, Sir Francis Bacon, Sir George Coppin, Sir John Scot, Sir Henry Carey, Sir Robert Drury, Sir Oratio Vere, Sir Edward Conway, Sir Maurice Berkeley, Sir Thomas Gates, Sir Michael Sandys, Sir Robert Mansel, Sir John Trevor, Sir Amias Preston, Sir William Godolphin, Sir Walter Cope, Sir Robert Killigrew, Sir Henry Fanshaw, Sir Edwin Sandys, Sir John Watts, Sir Henry Montague, Sir William Romney, Sir Thomas Roe, Sir Baptist Hicks, Sir Richard Williamson, Sir Stephen Poole, Sir Dudley Digges, Christopher Brooke, Esq., John Eldrid, and John Wolstenholme, shall be our council for the said company of adventurers and planters in Virginia.

X. And the said Thomas Smith we do ordain to be treasurer of the said company: which treasurer shall have authority, to give order, for the warning of the council, and summoning the company to their courts and meetings.

XI. And the said council and treasurer, or any of them, shall be from henceforth nominated, chosen, continued, displaced, changed, altered, and supplied, as death, or other several occasions, shall require, out of the company of the said adventurers, by the voice of the greater part of the said company and adventurers, in their assembly for that purpose: provided always, that every counsellor, so newly elected, shall be presented to the Lord Chancellor of England, or to the Lord High Treasurer of England, or to the Lord Chamberlain of the household of us, our heirs, and successors, for the time being, to take his oath of a counsellor to us, our heirs, and successors, for the said company of adventurers and colony in Virginia.

XII. And we do, by these presents, of our special grace, certain knowledge, and mere motion, for us, our heirs, and successors, grant unto the said treasurer and company, and their successors, that if it happen, at any time or times, the treasurer for the time being to be sick, or to have any such cause of absence from the

council to reside at London and to manage the affairs of the company.

This council shall have a seal, distinct from the common seal of the whole company.

Nomination of the first members of this council by the king.

Election of the treasurer and counsellors in all future vacancies by the majority of the said company.

Power of appointing a deputy treasurer, in cases of necessity.

city of London, as shall be allowed by the said council, or the greater part of them, assembled, so as he cannot attend the affairs of that company, in every such case, it shall and may be lawful for such treasurer for the time being, to assign, constitute, and appoint one of the council or company, to be likewise allowed by the council, or the greater part of them, assembled, to be the deputy treasurer of the said company; which deputy shall have power to do and execute all things, which belong to the said treasurer, during such time as such treasurer shall be either sick, or otherwise absent upon cause allowed of by the said council, or the major part of them, as aforesaid, so fully and wholly, and in as large and ample manner and form, to all intents and purposes, as the said treasurer, if he were present, himself might or could do and execute the same.

The council shall have power to make or appoint and to change or displace all governors and other officers of government of the said colonies.

XIII. And further, of our special grace, certain knowledge, and mere motion, for us, our heirs, and successors, we do, by these presents, give and grant full power and authority to our said council, here resident, as well at this present time, as hereafter from time to time, to nominate, make, constitute, ordain, and confirm, by such name or names, stile or stiles, as to them shall seem good; and likewise to revoke, discharge, change, and alter, as well all and singular governors, officers, and ministers, which already have been made, as also which hereafter shall be by them thought fit and needful to be made or used, for the government of the said colony and plantation.

And to make laws for the good government of the said colonies.

XIV. And also to make, ordain, and establish all manner of orders, laws, directions, instructions, forms, and ceremonies of government and magistracy, fit and necessary, for and concerning the government of the said colony and plantation; and the same, at all times hereafter, to abrogate, revoke, or change, not only within the precincts of the said colony, but also upon the seas in going and coming, to and from the said colony, as they, in their good discretion, shall think to be fittest for the good of the adventurers and inhabitants there.

Upon the arrival of a governor appointed by the said council in Virginia, the power of the president and council already established there and of all other officers of government shall instantly cease and be determined.

XV. And we do also declare, that for divers reasons and considerations us thereunto especially moving, our will and pleasure is, and we do hereby ordain, that immediately from and after such time, as any such governor or principal officer, so to be nominated and appointed, by our said council, for the government of the said colony, as aforesaid, shall arrive in Virginia, and give notice unto the colony there resident of our pleasure in this behalf, the government, power and authority of the president and council, heretofore by our former letters patents there established, and all laws and constitutions, by them formerly made, shall utterly cease and be determined, and all officers, governors and ministers, formerly constituted or appointed, shall be discharged, any thing, in our former letters patents concerning the said plantation contained, in any wise to the contrary notwithstanding; straightly charging and commanding the president and council, now resident in the said colony, upon their allegiance, after knowledge given unto them of our will and pleasure, by these presents signified and declared, that they forthwith be obedient to such governor or governors, as by our said council, here resident, shall be named and appointed, a

aforesaid, and to all directions, orders and commandments, which they shall receive from them, as well in the present resigning and giving up of their authority, offices, charge and places, as in all other attendance, as shall be by them, from time to time, required.

XVI. And we do further, by these presents, ordain and establish, that the said treasurer and council here resident, and their successors, or any four of them, being assembled (the treasurer being one) shall, from time to time, have full power and authority to admit and receive any other person into their company, corporation, and freedom; and further, in a general assembly of the adventurers, with the consent of the greater part, upon good cause, to disfranchise and put out any person or persons, out of the said freedom and company.

Admission of new members into the company.

Disfranchisement.

XVII. And we do also grant and confirm, for us, our heirs and successors, that it shall be lawful for the said treasurer and company, and their successors, by direction of the governors there, to dig and to search for all manner of mines of gold, silver, copper, iron, lead, tin, and all sorts of minerals, as well within the precinct aforesaid, as within any part of the main land, not formerly granted to any other; and to have and enjoy the gold, silver, copper, iron, lead, and tin, and all other minerals, to be gotten thereby, to the use and behoof of the said company of planters and adventurers yielding thereof, and paying yearly, unto us, our heirs and successors, as aforesaid.

Power to work all sorts of mines.

XVIII. And we do further, of our special grace, certain knowledge, and mere motion, for us, our heirs, and successors, grant, by these presents, to and with the said treasurer and company, and their successors, that it shall be lawful and free for them, and their assigns, at all and every time and times hereafter, out of our realm of England, and out of all other our dominions, to take and lead into the said voyages, and for and towards the said plantation, and to travel thitherwards, and to abide and inhabit there in the said colony and plantation, all such and so many of our loving subjects, or any other strangers, that will become our loving subjects, and live under our obedience, as shall willingly accompany them in the said voyage and plantation; with sufficient shipping, armour, weapons, ordinance, munition, powder, shot, victuals, and such merchandises or wares, as are esteemed by the wild people in those parts, cloathing, implements, furniture, cattle, horses, and mares, and all other things, necessary for the said plantation, and for their use and defence, and trade with the people there; and in passing, and returning to and fro; without yielding or paying subsidy, custom, imposition, or any other tax or duty, to us, our heirs, or successors, for the space of seven years from the date of these presents; provided, that none of the said persons be such, as shall be hereafter, by special name, restrained by us, our heirs, and successors.

Power to carry out the king's subjects or any strangers to settle the said colony, together with all necessary arms for their defence, and merchandises proper for trading with the people there;

without paying any custom or other duty for them for 7 years.

XIX. And for their further encouragement, of our special grace and favour, we do, by these presents, for us, our heirs and successors, yield and grant, to and with the said treasurer and company, and their successors, and every of them, their factors and assigns, that they and every of them, shall be free of all the subsidies and customs in Virginia, for the space of one-and-

No customs or subsidies shall be paid in Virginia for 21 years; and after that time the said

company and successors shall pay only a duty of 5 per cent. upon all goods exported from Virginia into England; after which they may export the same into foreign parts within the space of 13 months after their being first landed in England, without paying any other duty.

Power to resist and expell all intruders into the said colony.

Power to raise 5 per cent. upon all goods imported into said colony or exported out of it by the king's subjects not members of the said company:

and 10 per cent. upon all goods imported thither or

twenty years, and from all taxes and impositions, for ever, upon any goods or merchandizes, at any time or times hereafter, either upon importation thither, or exportation from thence, into our realm of England, or into any other of our realms or dominions, by the said treasurer and company, and their successors, their deputies, factors, or assigns, or any of them; except only the five pounds per cent. due for custom, upon all such goods and merchandizes, as shall be brought or imported into our realm of England, or any other of these our dominions, according to the antient trade of merchants; which five pounds per cent. only being paid, it shall be thenceforth lawful and free for the said adventurers, the same goods and merchandizes to export, and carry out of our said dominions, into foreign parts, without any custom, tax, or other duty, to be paid to us, our heirs, or successors, or to any other our officers or deputies; provided, that the said goods and merchandizes be shipped out, within thirteen months, after their first landing within any part of those dominions.

XX. And we do also grant and confirm to the said treasurer and company, and their successors, as also to all and every such governor, or other officers and ministers, as by our said council shall be appointed to have power and authority of government and command, in or over the said colony or plantation; that they, and every of them, shall and lawfully may, from time to time, and at all times for ever hereafter, for their several defence and safety, encounter, expulse, repel, and resist, by force and arms, as well by sea as by land, and all ways and means whatsoever, all and every such person and persons whatsoever, as (without the special licence of the said treasurer and company, and their successors) shall attempt to inhabit, within the said several precincts and limits of the said colony and plantation; and also, all and every such person and persons whatsoever, as shall enterprize or attempt, at any time hereafter, destruction, invasion, hurt, detriment, or annoyance, to the said colony and plantation, as is likewise specified in the said former grant.

XXI. And that it shall be lawful for the said treasurer and company, and their successors, and every of them, from time to time, and at all times for ever hereafter, and they shall have full power and authority, to take and surprise, by all ways and means whatsoever, all and every person and persons whatsoever, with their ships, goods, and other furniture, trafficking in any harbour, creek, or place, within the limits or precincts of the said colony and plantation, not being allowed by the said company to be adventurers or planters of the said colony, until such time as they, being of any realms and dominions under our obedience, shall pay, or agree to pay, to the hands of the treasurer or of some other officer, deputed by the said governor of Virginia (over and above such subsidy and custom, as the said company is, or hereafter shall be, to pay) five pounds per cent. upon all goods and merchandises so brought in thither, and also five per cent. upon all goods by them shipped out from thence; and being strangers, and not under our obedience, until they have paid (over and above such subsidy and custom, as the said treasurer and company, or their successors, is, or hereafter shall be, to pay)

ten pounds per cent. upon all such goods, likewise carried in and out, anything, in the said former letters patents, to the contrary notwithstanding; and the same sums of money and benefit, as aforesaid, for and during the space of one-and-twenty years, shall be wholly employed to the benefit, use, and behoof of the said colony and plantation; and after the said one-and-twenty years ended, the same shall be taken to the use of us, our heirs, and successors, by such officers and ministers, as by us, our heirs, or successors, shall be thereunto assigned and appointed, as is specified in the said former letters patents.

exported
thence by
strangers
not under
the king's
obedience.

XXII. Also, we do, for us, our heirs, and successors, declare, by these presents, that all and every the persons, being our subjects, which shall go and inhabit within the said colony and plantation, and every of their children and posterity, which shall happen to be born within any the limits thereof, shall have and enjoy all liberties, franchises, and immunities of free denizens and natural subjects, within any of our other dominions, to all intents and purposes, as if they had been abiding and born within this our realm of England, or in any other of our dominions.

General de-
claration of
all such per-
sons as shall
be born in
that colony.

XXIII. And forasmuch, as it shall be necessary for all such our loving subjects, as shall inhabit within the said precincts of Virginia, aforesaid, to determine to live together, in the fear and true worship of Almighty God, christian peace, and civil quietness, each with other, whereby every one may, with more safety, pleasure, and profit, enjoy that, whereunto they shall attain with great pain and peril; we, for us, our heirs, and successors, are likewise pleased and contented, and by these presents, do give and grant unto the said treasurer and company, and their successors, and to such governors, officers, and ministers, as shall be, by our said council, constituted and appointed, according to the natures and limits of their offices and places respectively, that they shall and may, from time to time for ever hereafter, within the said precincts of Virginia, or in the way by sea thither and from thence, have full and absolute power and authority, to correct, punish, pardon, govern, and rule, all such the subjects of us, our heirs, and successors, as shall, from time to time, adventure themselves in any voyage thither, or that shall, at any time hereafter, inhabit in the precincts and territories of the said colony, as aforesaid, according to such orders, ordinances, constitutions, directions, and instructions, as by our said council, as aforesaid, shall be established; and in defect thereof, in case of necessity, according to the good discretion of the said governor and officers, respectively, as well in cases capital and criminal as civil, both marine and other; so always, as the said statutes, ordinances, and proceedings, as near as conveniently may be, be agreeable to the laws, statutes, government, and policy of this our realm of England.

Power to
the officers
of govern-
ment that
shall be ap-
pointed for
that purpose
by the coun-
cil aforesaid,
to govern
the people of
the said co-
lony accord-
ing to such
laws, criminal
as well
as civil, as
shall be
established
by the said
council.

XXIV. And we do further, of our special grace, certain knowledge, and mere motion, grant, declare, and ordain, that such principal governor, as, from time to time, shall duly and lawfully be authorised and appointed, in manner and form in these presents heretofore expressed, shall have full power and authority, to use and exercise martial law, in cases of rebellion or mutiny, in as

large and ample manner, as our lieutenants in our counties, within this our realm of England, have, or ought to have, by force of their commissions of lieutenancy.

Persons who under pretence of trading to this colony, shall send goods into foreign countries, shall forfeit their ships and goods.

XXV. And furthermore, if any person or persons, adventurers or planters of the said colony, or any other, at any time or times hereafter, shall transport any monies, goods, or merchandizes, out of any of our kingdoms, with a pretence or purpose, to land, sell, or otherwise dispose of the same, within the limits or bounds of the said colony, and yet nevertheless, being at sea, or after he hath landed within any part of the said colony, shall carry the same into any other foreign country, with a purpose there to sell and dispose thereof; that then, all the goods and chattels of the said person or persons, so offending and transported, together with the ship or vessel wherein such transportation was made, shall be forfeited to us, our heirs and successors.

Doubtful passages in these and former patents shall be construed beneficially to the grantees.

XXVI. And further, our will and pleasure is, that in all questions and doubts that shall arise, upon any difficulty of construction or interpretation of any thing, contained either in this or in our said former letters patents, the same shall be taken and interpreted, in most ample and beneficial manner for the said treasurer and company, and their successors, and every member thereof.

Confirmation of former patents not revoked or altered by the present charter.

XXVII. And further, we do, by these presents, ratify and confirm unto the said treasurer and company, and their successors, all the privileges, franchises, liberties, and immunities, granted in our said former letters patents, and not in these our letters patents revoked, altered, changed or abridged.

Extension of the privileges granted by this charter to all future members of the said company duly admitted into it by the council thereof, in the manner above described.

XXVIII. And finally, our will and pleasure is, and we do further, hereby, for us, our heirs and successors, grant and agree, to and with the said treasurer and company, and their successors, that all and singular person and persons, which shall, at any time or times hereafter, adventure any sum or sums of money, in and towards the said plantation of the said colony in Virginia, and shall be admitted, by the said council and company, as adventurers of the said colony, in form aforesaid, and shall be enrolled in the book or records of the adventurers of the said company, shall and may be accounted, accepted, taken, held, and reputed, adventurers of the said colony, and shall and may enjoy all and singular grants, privileges, liberties, benefits, profits, commodities, and immunities, advantages, and emoluments whatsoever, as fully, largely, amply, and absolutely, as if they, and every of them, had been precisely, plainly, singularly, and distinctly named and inserted in these our letters patents.

No person shall go into the said country without having first taken the oath of supremacy.

XXIX. And lastly, because the principal effect which we can desire or expect of this action, is the conversion and reduction of the people in those parts unto the true worship of God and Christian religion, in which respect we should be loath, that any person should be permitted to pass, that we suspected to effect the superstitions of the church of Rome; we do hereby declare, that it is our will and pleasure, that none be permitted to pass, in any voyage, from time to time to be made into the said country, but such as first shall have taken the oath of supremacy; for which purpose we do, by these presents, give full power and authority

to the treasurer for the time being, and any three of the council, to tender and exhibit the said oath, to all such persons as shall, at any time, be sent and employed in the said voyage. Although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gifts or grants, by us, or any of our progenitors, or predecessors, to the aforesaid treasurer and company heretofore made, in these presents is not made; or any act, statute, ordinance, provision, proclamation, or restraint, to the contrary hereof had, made, ordained, or provided, or any other thing, cause, or matter, whatsoever in any wise notwithstanding. In witness whereof, we have caused these our letters to be made patent; witness ourself at Westminster, the 23d day of May, in the seventh year of our reign of England, France, and Ireland, and of Scotland the ****.

Per ipsum Regem,

LUKIN.

THE evils which followed the abrogation of the Local Council, and the departure of its President, Captain Smith, are ably and elaborately described by Grahame. I have space only for a brief extract. 'At the period of Smith's departure, the infant commonwealth was composed of five hundred persons, and amply provided with all necessary stores of arms, provisions, cattle, and implements of agriculture: but the sense to improve its opportunities was wanting; and with him its good fortune departed. For a short time the command was intrusted to George Percy, a man of worth, but devoid of the vigour that gives efficacy to virtue; and the direction of affairs soon relapsed into the same mischievous channel from which Smith had recalled it. The Colony was delivered up to the wildest excesses of a seditious and distracted rabble, and presented a scene of riot, folly, and profligacy, strongly invoking vindictive retribution, and speedily overtaken by it. The magazines of food were quickly exhausted; and the Indians, incensed by repeated injuries, and aware that the man whom they so much respected had ceased to govern the colonists, not only refused them all assistance, but harassed them with continual attacks. Famine ensued, and completed their misery and degradation by transforming them into cannibals, and compelling them to support their lives by feeding on the bodies of the Indians they had killed, and of their own companions who perished of hunger or disease. Six months after the departure of Smith there remained no more than *sixty persons* alive at James Town, still prolonging their wretchedness by a vile and precarious diet, but daily expecting its final and fatal close.' On the arrival of Sir Thomas Gates and his coadjutors, from Bermuda, where they had been detained by shipwreck for some ten months, the colonists were importunate to abandon the settlement. The high character and capacity of Lord Delaware, who presented himself soon afterwards as Captain-General of the Colony, alone encouraged them to maintain their position. The

reports of those who were shipwrecked at Bermuda, some of whom succeeded him on his retirement from office, induced the Company to apply to the King for another enlargement of their territory and jurisdiction. Their request obtained the following Charter, which invested them, by its 4th clause, with all the islands situated within three hundred leagues of the Virginian coast. 'Some innovations were made at the same time in the structure and forms of the Corporation; the term of exemption from customs was prolonged; the Company was empowered to apprehend and remand persons deserting the settlement in violation of their engagements; and for the more effectual advancement of the Colony, and indemnification of the large sums that had been expended on it, licence was given to open lotteries in any part of England.' This is Stith's statement of the scope of the Charter, which is corroborated by its provisions as here set forth. It is dated the 12th of March, 1612, and in Almon's edition is described as—

CHARTER No. III.

Recital of
the sub-
stance of
the Charter
of May 23,
1609.

I. JAMES, by the grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith; to all, to whom these presents shall come, greeting. Whereas at the humble suit of divers and sundry our loving subjects, as well adventurers as planters of the first colony in Virginia, and for the propagation of christian religion, and reclaiming of people barbarous to civility and humanity, we have, by our letters patents, bearing date at Westminster, the three-and-twentieth day of May, in the seventh year of our reign of England, France, and Ireland, and the two-and-fortieth of Scotland, given and granted unto them, that they and all such and so many of our loving subjects, as should, from time to time for ever after, be joined with them, as planters or adventurers in the said plantation, and their successors, for ever, should be one body politic, incorporated by the name of, The treasurer and company of adventurers and planters of the city of London for the first colony in Virginia.

II. And whereas also, for the greater good and benefit of the said company, and for the better furtherance, strengthening, and establishing of the said plantation, we did further give, grant, and confirm, by our said letters patents, unto the said treasurer and company, and their successors, for ever, all those lands, countries, or territories, situate, lying, and being, in that part of America called Virginia, from the point of land called Cape or Point Comfort, all along the sea coasts, to the northward, two hundred miles, and from the said point of Cape Comfort, all along the sea coast, to the southward, two hundred miles, and all that space and circuit of land, lying from the sea coast of the precinct aforesaid, up or into the land, throughout from sea to sea, west and northwest, and also all the islands, lying within one hundred miles, along the coast of both the seas of the precinct aforesaid, with divers other grants, liberties, franchises, and preheminences, privileges, profits, benefits, and commodities, granted, in and by oursaid letters patents, to the said treasurer and company, and their successors for ever.

III. Now, forasmuch as we are given to understand, that in those seas, adjoining to the said coasts of Virginia, and without the compass of those two hundred miles, by us so granted unto the said treasurer and company, as aforesaid, and yet not far distant from the said colony in Virginia, there are, or may be, divers islands, lying desolate and uninhabited, some of which are already made known and discovered, by the industry, travel, and expence of the said company, and others also are supposed to be and remain, as yet, unknown and undiscovered, all and every of which it may import the said colony, both in safety and policy of trade, to populate and plant, in regard whereof, as well for the preventing of peril, as for the better commodity and prosperity of the said colony, they have been humble suitors unto us, that we would be pleased to grant unto them an enlargement of our said former letters patents, as well for a more ample extent of their limits and territories into the seas adjoining to, and upon the coast of Virginia, as also for some other matters and articles, concerning the better government of the said company and colony, in which point our said former letters patents do not extend so far, as time and experience hath found to be needful and convenient.

IV. We therefore, tendering the good and happy success of the said plantation, both in regard of the general weal of human society, as in respect of the good of our own estate and kingdoms, and being willing to give furtherance to all good means, that may advance the benefit of the said company, and which may secure the safety of our loving subjects, planted in our said colony under the favour and protection of God Almighty, and of our royal power and authority, have therefore, of our especial grace, certain knowledge, and mere motion, given, granted, and confirmed, and for us, our heirs and successors, We do, by these presents, give, grant, and confirm, to the said treasurer and company of adventurers and planters of the city of London for the first colony in Virginia, and to their heirs and successors, for ever, all and singular those islands whatsoever, situate and being in any part of the ocean seas bordering upon the coast of our said first colony in Virginia, and being within three hundred leagues of any the parts heretofore granted to the said treasurer and company, in our said former letters patents, as aforesaid, and being within or between the one-and-fortieth and thirtieth degrees of northerly latitude, together with all and singular soils, lands, grounds, havens, ports, rivers, waters, fishings, mines, and minerals, as well royal mines of gold and silver, as other mines and minerals, pearls, precious stones, quarries, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, and preheminences, both within the said tract of land upon the main, and also within the said island and seas adjoining, whatsoever, and thereunto or thereabouts, both by sea and land, being and situate: and which, by our letters patents, we may, or can, grant, and in as ample manner and sort, as we or any our noble progenitors, have heretofore granted to any person or persons, or to any company, body politic or corporate, or to any adventurer or adventurers, undertaker or undertakers, of any discoveries, plantations or traffic, of or into any foreign parts, whatsoever, and in as large and ample manner

Petition of
the grantees
for the en-
largement
of their for-
mer charter.

Grant of a
further tract
of country
to the said
London
company.

as if the same were herein particularly named, mentioned, and expressed: provided always, that the said islands, or any the premises herein mentioned, or by these presents intended or meant to be granted, be not actually possessed or inhabited by any other christian prince or estate, nor be within the bounds, limits, or territories of the northern colony, heretofore by us granted to be planted by divers of our loving subjects, in the north parts of

Habendum. Virginia. To have and to hold, possess and enjoy, all and singular the said islands, in the said ocean seas so lying, and bordering upon the coast and coasts of the territories of the said first colony in Virginia, as aforesaid; with all and singular the said soils, lands, and grounds, and all and singular other the premises, heretofore by these presents granted, or mentioned to be granted, to them, the said treasurer and company of adventurers and planters of the city of London for the first colony in Virginia, and to their heirs, successors, and assigns, for ever, to the sole and proper use and behoof of them, the said treasurer and company, and their heirs, and successors, and assigns, for ever. To be holden of us, our heirs, and successors, as of our manor of East-Greenwich, in free and common soccage, and not in capite. Yielding and paying therefore to us, our heirs, and successors, the fifth part of the ore of all gold and silver, which shall be there gotten, had, or obtained, for all manner of services whatsoever.

Associations of divers eminent persons to the said London company.

V. And further, our will and pleasure is, and we do, by these presents, grant and confirm, for the good and welfare of the said plantation, and that posterity may hereafter know who have adventured, and not been sparing of their purses in such a noble and generous action for the general good of their country, and at the request, and with the consent, of the company aforesaid, that our trusty and well-beloved subjects, George, Lord Archbishop of Canterbury, Henry, Earl of Huntingdon, Edward, Earl of Bedford, Richard, Earl of Clanrickard, &c., who since our said last letters patents are become adventurers, and have joined themselves with the former adventurers and planters of the said company and society, shall, from henceforth, be reputed, deemed, and taken to be, and shall be, brethren and free members of the company, and shall and may, respectively, and according to the proportion and value of their several adventures, have, hold, and enjoy all such interest, right, title, privileges, preeminences, liberties, franchises, immunities, profits, and commodities, whatsoever, in as large, and ample, and beneficial manner, to all intents, constructions, and purposes, as any other adventurers, nominated and expressed in any our former letters patents, or any of them, have or may have, by force and virtue of these presents, or any our former letters patents whatsoever.

Addition of divers eminent persons, to the council of the said company.

VI. And we are further pleased, and we do, by these presents, grant and confirm, that Philip, Earl of Montgomery, William, Lord Paget, Sir John Starrington, Knt. &c., whom the said treasurer and company have, since the said last letters patents, nominated and set down, as worthy and discreet persons, fit to serve as counsellors, to be of our council for the said plantation, shall be reputed, deemed, and taken, as persons of our said council for the said first colony, in such manner and sort, to all intents and pur-

poses, as those who have been formerly elected and nominated as our counsellors for that colony, and whose names have been or are inserted and expressed, in our said former letters patents.

VII. And we do hereby ordain and grant, by these presents, that the said treasurer and company of adventurers and planters aforesaid, shall and may, once every week, or oftener at their pleasure, hold and keep a court and assembly, for the better order and government of the said plantation, and such things as shall concern the same; and that any five persons of our council for the said first colony in Virginia, for the time being, of which company the treasurer, or his deputy, to be always one, and the number of fifteen others, at the least, of the generality of the said company, assembled together in such manner, as is and hath been heretofore used and accustomed, shall be said, taken, held, and reputed to be, and shall be a sufficient court of the said company, for the handling, and ordering, and dispatching of all such casual and particular occurrences, and accidental matters, of less consequence and weight, as shall, from time to time, happen, touching and concerning the said plantation.

Courts or assemblies of the company shall be held once every week, or oftener, for transaction of ordinary business.

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VIII. And that nevertheless, for the handling, ordering, and disposing of matters and affairs of great weight and importance, and such as shall or may, in any sort, concern the weal public and general good of the said company and plantation, as, mainly, the manner of government from time to time to be used, the ordering and disposing of the lands and possessions, and the settling and establishing of a trade there, or such like, there shall be held and kept, every year, upon the last Wednesday, save one, of Hillary term, Easter, Trinity, and Michaelmas terms, for ever, one great, general, and solemn assembly, which four assemblies shall be stiled and called, The four great and general courts of the council and company of adventurers for Virginia; in all and every of which said great and general courts, so assembled, our will and pleasure is, and we do, for us, our heirs, and successors, for ever, give and grant to the said treasurer and company, and their successors, for ever, by these presents, that they, the said treasurer and company, or the greater number of them, so assembled, shall and may have full power and authority, from time to time, and at all times hereafter, to elect and chuse discreet persons, to be of our said council for the said first colony in Virginia, and to nominate and appoint such officers, as they shall think fit and requisite, for the government, managing, ordering, and dispatching of the affairs of the said company: and shall likewise have full power and authority, to ordain and make such laws and ordinances, for the good and welfare of the said plantation, as to them, from time to time, shall be thought requisite and meet: so always, as the same be not contrary to the laws and statutes of this our realm of England: and shall, in like manner, have power and authority, to expulse, disfranchise, and put out of and from their said company and society, for ever, all and every such person and persons, as having either promised, or subscribed their names, to become adventurers to the said plantation of the said first colony in Virginia, or having been nominated for adventurers, in these or any other our letters patents, or

And for the management of the more important business of the company, four great and general assemblies of the members of it shall be held in every year.

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Election of counsellors and other officers of government

Making laws.

Disfranchisement of members that neglect to pay the money they have subscribed.

having been otherwise admitted and nominated to be of the said company, have nevertheless, either not put in any adventure at all, for and towards the said plantation, or else have refused and neglected, or shall refuse and neglect to bring in his or their adventure, by word or writing promised, within six months after the same shall be so payable and due.

Directions to the courts of justice to enforce the payment of the said monies.

IX. And whereas the failing and not payment of such monies, as have been promised in adventure for the advancement of the said plantation, hath been often by experience found to be dangerous and prejudicial to the same, and much to have hindered the progress and proceeding of the said plantation, and for that it seemeth unto us a thing reasonable, that such persons, as by their hand writing have engaged themselves for the payment of their adventures, and afterwards neglecting their faith and promise, should be compelled to make good and keep the same; therefore our will and pleasure is, that in any suit or suits commenced, in any of our courts at Westminster, or elsewhere, by the said treasurer and company, or otherwise, against any such persons, that our judges for the time being, both in our court of Chancery, and at the Common Pleas, do favour and further the said suits, so far forth as law and equity will, in any wise, further and permit.

Power to admit any persons, whether natural born subjects of the King, or aliens, into the company.

X. And we do, for us, our heirs, and successors, further give and grant to the said treasurer and company, or their successors, for ever, that they the said treasurer and company, or the greater part of them, for the time being, so in a full and general court assembled, as aforesaid, shall and may, from time to time, and at all times for ever hereafter, elect, chuse, and admit into their company and society, any person or persons, as well strangers and aliens, born in any part beyond the seas wheresover, being in amity with us, as our natural liege-subjects, born in any our realms and dominions: and that all such persons so elected, chosen, and admitted to be of the said company, as aforesaid, shall thereupon be taken, reputed, and held, and shall be free members of the said company, and shall have, hold, and enjoy all and singular freedoms, liberties, franchises, privileges, immunities, benefits, profits, and commodities whatsoever, to the said company in any sort belonging or appertaining, as fully, freely, and amply, as any other adventurers, now being, or which hereafter at any time shall be of the said company, hath, have, shall, may, might, or ought to have and enjoy the same, to all intents and purposes whatsoever.

Power to carry out the King's subjects or strangers, to settle the said plantation; together with all necessary arms for their defence, and merchandizes proper

XI. And we do further, of our special grace, certain knowledge, and mere motion, for us, our heirs, and successors, give and grant unto the said treasurer and company, and their successors, for ever, by these presents, that it shall be lawful and free for them and their assigns, at all and every time and times hereafter, out of any our realms and dominions whatsoever, to take, lead, carry, and transport in and into the said voyage, and for and towards the said plantation of our said first colony in Virginia, all such and so many of our loving subjects, or any other strangers that will become our loving subjects, and live under our allegiance, as shall willingly accompany them in the said voyages and planta-

tion; with shipping, armour, weapons, ordnance, munition, powder, shot, victuals, and all manner of merchandises and wares, and all manner of cloathing, implements, furniture, beasts, cattle, horses, mares, and all other things necessary for the said plantation, and for their use and defence, and for trade with the people there, and in passing and returning to and from, without paying or yielding any subsidy, custom, or imposition, either inward or outward, or any other duty, to us, our heirs, or successors, for the same, for the space of seven years from the date of these presents.

for trading with the people there, without paying any custom or duty for them for seven years.

XII. And we do further, for us, our heirs, and successors, give and grant to the said treasurer and company, and their successors, for ever, by these presents, that the said treasurer of that company, or his deputy, for the time being, or any two other of the said council, for the said first colony in Virginia, for the time being, or any two other at all times hereafter, and from time to time, have full power and authority to minister and give the oath and oaths of supremacy and allegiance, or either of them, to all and every person and persons which shall, at any time or times hereafter, go or pass to the said colony in Virginia.

Power to the treasurer of the company, or his deputy, or any two of the council, to administer to any person going into Virginia the oath of allegiance and supremacy.

XIII. And further, that it shall be lawful likewise for the said treasurer, or his deputy, for the time being, or any two others of our said council for the said first colony in Virginia, for the time being, from time to time, and at all times hereafter, to minister such a formal oath, as by their discretion shall be reasonably devised, as well unto any person or persons employed in, for, or touching the said plantation, for their honest, faithful, and just discharge of their service, in all such matters as shall be committed unto them for the good and benefit of the said company, colony, and plantation; as also, unto such other person or persons as the said treasurer, or his deputy, with two others of the said council, shall think meet, for the examination or clearing of the truth, in any cause whatsoever concerning the said plantation, or any business from thence proceeding, or thereunto belonging.

Power to the same persons to administer oaths of office to persons employed in the said plantation, and oaths to witnesses in judicial proceedings.

XIV. And furthermore, whereas we have been certified that divers lewd and ill-disposed persons, both sailors, soldiers, artificers, husbandmen, labourers, and others, having received wages, apparel, and other entertainment from the said company, or having contracted and agreed with the said company to go, or to serve, or to be employed in the said plantation of the said first colony in Virginia, have afterwards either withdrawn, hid, or concealed themselves, or have refused to go thither, after they have been so entertained and agreed withal; and that divers and sundry persons also, which have been sent and employed in the said plantation of the said first colony in Virginia, at and upon the charge of the said company, and having there misbehaved themselves by mutinies, sedition, or other notorious misdemeanors, or having been employed or sent abroad, by the governor of Virginia, or his deputy, with some ship or pinnace, for our provision of the said colony, or for some discovery, or other business and affairs concerning the same, have from thence most treacherously either come back again and returned into our realm of England, by stealth, or without licence of our governor of our said colony in Virginia for the time being, or have been sent hither, as misdoers

Recital of the misbehaviour of divers persons employed or engaged by the said company.

and offenders; and that many also of those persons, after their return from thence, having been questioned by our said council here, for such their misbehaviours and offences, by their insolent and contemptuous carriage in the presence of our said Council, have shewed little respect and reverence, either to the place, or authority, in which we have placed and appointed them; and others, for the colouring of their lewdness and misdemeanors committed in Virginia, have endeavoured by most vile and slanderous reports, made and divulged, as well of the country of Virginia, as also of the government and estate of the said plantation and colony, as much as in them lay, to bring the said voyage and plantation into disgrace and contempt; by means whereof, not only the adventurers and planters already engaged in the said plantation have been exceedingly abused and hindered, and a great number of other our loving and well-disposed subjects, otherwise well-affected, and inclined to join and adventure in so noble, christian, and worthy an action, have been discouraged from the same, but also the utter overthrow and ruin of the said enterprize hath been greatly endangered, which cannot miscarry without some dishonour to Us and our kingdom.

Power given to the treasurer or his deputy, with one of the council of the said company, to cause such offenders to be apprehended, and proceeded against in England, or sent back to Virginia, to be there punished, as they shall think proper.

XV. Now, forasmuch as it appeareth unto Us, that these insolences, misdemeanors, and abuses, not to be tolerated in any civil government, have, for the most part, grown and proceeded, in regard our said Council have not any direct power and authority, by any express words in our former letters patents, to correct and chastise such offenders; we therefore, for the more speedy reformation of so great and enormous abuses and misdemeanors, heretofore practised and committed, and for the preventing of the like hereafter, do, by these presents, for us, our heirs, and successors, give and grant to the said treasurer and company, and their successors, for ever, that it shall and may be lawful for our said Council for the said first colony in Virginia, or any two of them, (whereof the said treasurer or his deputy, for the time being, to be always one,) by warrant under their hands, to send for, or to cause to be apprehended, all and every such person and persons, who shall be noted, or accused, or found, at any time or times hereafter, to offend, or misbehave themselves, in any the offences before mentioned [and expressed; and upon the examination of any such offender or offenders, and just proof made by oath, taken before the said Council, of any such notorious misdemeanors by them committed, as aforesaid; and also upon any insolent, and contemptuous, or indecent carriage and misbehaviour, to or against our said Council, shewed or used by any such person or persons, so called, convented, and appearing before them, as aforesaid; that in all such cases, they, our said Council, or any two of them, for the time being, shall and may have full power and authority, either here to bind them over with good sureties for their good behaviour, and further therein to proceed, to all intents and purposes, as it is used, in other like cases, within our realm of England; or else, at their discretions, to remand and send them back, the said offenders, or any of them, unto the said colony in Virginia, there to be proceeded against and punished, as the governor, deputy, or council there, for the time being, shall think meet; or otherwise,

according to such laws and ordinances, as are and shall be in use there, for the well-ordering and good government of the said colony.

XVI. And for the more effectual advancing of the said plantation, we do further, for us, our heirs and successors, of our special grace and favour, by virtue of our prerogative royal, and by the assent and consent of the Lords and others of our privy council, give and grant, unto the said treasurer and company, full power and authority, free leave, liberty, and licence, to set forth, erect, and publish, one or more lottery or lotteries, to have continuance, and to endure and be held, for the space of one whole year, next after the opening of the same; and after the end and expiration of the said term, the said lottery or lotteries to continue and be further kept, during our will and pleasure only, and not otherwise. And yet nevertheless, we are contented and pleased, for the good and welfare of the said plantation, that the said treasurer and company shall, for the dispatch and finishing of the said lottery or lotteries, have six months' warning after the said year ended, before our will and pleasure shall, for and on that behalf, be construed, deemed, and adjudged, to be in any wise altered and determined.

Power to erect lotteries.

XVII. And our further will and pleasure is, that the said lottery and lotteries shall and may be opened and held, within our city of London, or any other city or town, or elsewhere, within this our realm of England, with such prizes, articles, conditions, and limitations, as to them, the said treasurer and company, in their discretions, shall seem convenient.

XVIII. And that it shall and may be lawful, to and for the said treasurer and company, to elect and chuse receivers, auditors, surveyors, commissioners, or any other officers whatsoever, at their will and pleasure, for the better marshalling, disposing, guiding, and governing of the said lottery and lotteries; and that it shall likewise be lawful, to and for the said treasurer and any two of the said Council, to minister to all and every such person, so elected and chosen for officers, as aforesaid, one or more oaths, for their good behaviour, just and true dealing, in and about the said lottery or lotteries, to the intent and purpose, that none of our loving subjects, putting in their names, or otherwise adventuring in the said general lottery or lotteries, may be, in any wise, defrauded and deceived of their said monies, or evilly and indirectly dealt withal in their said adventures.

XIX. And we further grant, in manner and form aforesaid, that it shall and may be lawful, to and for the said treasurer and company, under the seal of our said council for the plantation, to publish, or to cause and procure to be published, by proclamation or otherwise (the said proclamation to be made in their name, by virtue of these presents) the said lottery or lotteries, in all cities, towns, boroughs, and other places within our said realm of England; and we will and command all mayors, justices of peace, sheriffs, bailiffs, constables, and other officers and loving subjects, whatsoever, that, in no wise, they hinder or delay the progress and proceedings of the said lottery or lotteries, but be therein, touching the premises,

aiding and assisting, by all honest, good, and lawful means and endeavours.

Doubtful passages shall be construed in favour of the grantees.

XX. And further, our will and pleasure is, that in all questions and doubts that shall arise, upon any difficulty of construction or interpretation of any thing contained in these, or any other our former letters patents, the same shall be taken and interpreted, in most ample and beneficial manner, for the said treasurer and company, and their successors, and every member thereof.

Confirmation of the former letters patents in all points not revoked or altered by the present.

XXI. And lastly, we do, by these presents, ratify and confirm unto the said treasurer and company, and their successors, for ever, all and all manner of privileges, franchises, liberties, immunities, preheminences, profits, and commodities, whatsoever, granted unto them in any our former letters patents, and not in these presents revoked, altered, changed, or abridged. Although express mention of the true yearly value or certainty of the premises, or any of them, or of any other gift or grant, by us or any of our progenitors or predecessors, to the aforesaid treasurer and company heretofore made, in these presents is not made; or any statute, act, ordinance, provision, proclamation, or restraint, to the contrary thereof heretofore made, ordained, or provided, or any other matter, cause, or thing, whatsoever, to the contrary, in anywise, notwithstanding.

In witness whereof we have caused these our letters to be made patents. Witness Ourself, at Westminster, the twelfth day of March, in the ninth year of our reign of England, France, and Ireland, and of Scotland the five-and-fortieth.

NOTWITHSTANDING the acquisition of the Bermuda Islands by the Charter just recited, they were not long retained by the Company, but were sold to a junta of their own associates, who were separately incorporated as the Somer-Islands' Company. In other respects the Colony went on indifferently, after the resumption of its local privileges. Criminals were transported there by the order of the King, and Captain Smith remarks that after his departure from the Colony, the number of felons and vagabonds transported to Virginia brought such evil report on the place, 'that some did choose to be hanged ere they would go thither, *and were.*' It is suggested by Grahame, that the fate of this Settlement occasioned Lord Bacon's memorable declaration, that 'it is a shameful and unblessed thing to take the scum of the people and wicked condemned men to be the people with whom we plant.' As he was a member of the council constituted under the second Charter, it is more than probable that Grahame is correct. At all events, the colonists were sufficiently harassed, and were continually growing more discontented up to the year 1619, when Sir George Yeardley was made Captain-General by the Company, and repaired to the scene of his new administration.

It remains only for me to mention here the remarkable course

which he took on his arrival. 'Sir George Yeardley,' says Gra-hame, 'on his arrival in Virginia, plainly perceived that it was impossible to compose the prevalent jealousy of arbitrary power and impatience for liberty, or to conduct his own administration in a satisfactory manner, without reinstating the Colonists in full possession of the privileges of Englishmen; and accordingly, to their inexpressible joy, he promptly signified his intention of convoking a provincial assembly, framed with all possible analogy to the Parliament of the Parent State. This first representative legislature that America ever beheld consisted of the Governor, the Council, and a number of Burgesses elected by the seven existing Boroughs, who, assembling at James Town, in one apartment, discussed all matters that concerned the general welfare, and conducted their deliberations with good sense, moderation, and harmony. The laws which they enacted were transmitted to England for the approbation of the treasurer and company, and are no longer extant: but it is asserted by competent judges that they were, in the main, wisely and judiciously framed, though (as might reasonably be expected) somewhat intricate and unsystematical. The Company some time after passed an ordinance by which they substantially approved and ratified this constitution of the Virginian legislature. They reserved, however, to themselves, the nomination of a Council of State, which should assist the Governor with advice in the executive administration, and should also form a part of the Legislative Assembly; and they provided, on the one hand, that the enactments of the Assembly should not have the force of law until sanctioned by the Court of Proprietors in England: and conceded, on the other hand, that the orders of this court should have no force in Virginia till ratified by the Provincial Assembly. Thus early was planted in America that representative system which forms the soundest political frame wherein the spirit of liberty was ever embodied, and at once the safest and most efficient organ by which its energies are exercised and developed. So strongly imbued were the minds of Englishmen in this age with those generous principles which were rapidly advancing to a fast manhood in their native country, that wherever they settled themselves, the institutions of freedom took root, and grew up along with them.'

Notwithstanding the arbitrary dissolution of the Virginia Company in 1624, and the resumption of its Charters, its provincial assembly still survived, and, though occasionally harassed by encroachments of the prerogative, was the secret stay of that loyal attitude which Virginia maintained at the date of the English Revolution; and it was also—as I infer on the broadest grounds of historical and especially of colonial experience—a material source of the prosperity of the Settlement.

THE NEW-ENGLAND STATES.

THE New Plymouth Company, constituted under the first Virginia Charter, had made an ineffectual attempt to colonize what was then called Northern Virginia. At length, in 1620, a congregation of Puritans having procured from the Plymouth Company a grant of a tract of land, succeeded in reaching the coast of America, and in founding a settlement to which they gave the name of New Plymouth, at a place afterwards included within the province of Massachusetts. Having continued for some years without a patent for their territorial occupation, they first solicited and obtained from a body denominated the Grand Council of Plymouth, a new corporation, by which James, in the year 1620, had superseded the original Plymouth Company, a charter by which they were authorised *pro tanto* to choose a governor, council, and general court, for the enactment and execution of laws instrumental to the public good. But they were never incorporated with legal formality into a body politic, but remained a subordinate and voluntary municipal association until united to their more powerful neighbour the Colony of Massachusetts.

The latter Colony was projected by another body of Puritans in the early part of 1627, a grant obtained from the Council of Plymouth for that purpose in March of the same year, and a Charter procured on the 4th of March following. This Charter, Almon, with absurd inaccuracy, has referred to the year 1644, because in that year he finds that it was witnessed by John Winthrop, the Governor of Massachusetts. Its actual date is of singular importance when we reflect how signal an exception it displays to the spirit of English legislation at the time. Its meaning, with respect to the ecclesiastical rights of the colonists of Massachusetts, has been the subject of controversy, though even in this respect the novel abstinence from the imposition of a single ordinance respecting the system of their church government, or the forms and ceremonies of their religious worship, leaves little uncertain or unintelligible. With respect, however, to municipal rights, it is plain that a large measure was intended to be given. Thus the Charter provides that the Government should be administered by a governor, a deputy governor, and eighteen assistants, from time to time *elected* out of

the freemen of the Company, which officers should have the care of the general business and affairs of the lands and plantations and the government of the people there; and it appoints the first Governor, Deputy Governor, and assistants, by name. It further provides of whom the court for the transaction of business should consist; that it should assemble as often as once a month, and also, that four great general assemblies of the Company should be held in every year. In these general assemblies freemen are to be admitted, officers elected, and laws and ordinances for the good of the Colony made, 'so that such laws and ordinances be not contrary or repugnant to the laws and statutes of this our realm of England.' At one of these great and general assemblies, held in Easter term, the Governor, Deputy, and assistants, and other officers, are to be *annually chosen* by the Company present. Full legislative authority is also given, subject to the restriction of not being contrary to the laws of England, as also for the imposition of fines and mulcts according to the course of other corporations in England.

Such, then, were some of the powers and privileges originally conferred on the Colony of Massachusetts Bay. 'It is observable,' says Story, 'that the whole structure of the Charter presupposes the residence of the Company in England, and the transaction of all its business there. The experience of the past had not sufficiently instructed the adventurers that settlements in America could not be well governed by corporations resident abroad; or if any of them had arrived at such a conclusion, there were many reasons for presuming that the Crown would be jealous of granting powers of so large a nature, which were to be exercised at such a distance, as would render any control or responsibility over them wholly visionary.' But the Colonists disposed of the question by a very bold step. 'It was ascertained that little success would attend the plantation so long as its affairs were under the control of a distant government, knowing little of its wants, and insensible to its difficulties. Many persons, indeed, possessed of fortune and character, warmed with religious zeal, or suffering under religious intolerance, were ready to embark in the enterprise if the corporation should be removed, that the power of government might be exercised by the actual settlers.' Accordingly, as we find from Hutchinson's History, it was determined, in August, 1629, 'By the general consent of the Company, that the Government and Patent should be *settled* in New England.' The Charter was planted, as it were, with the colonists, by a transaction, which, as Story justly remarks, 'stands alone in the History of English Colonization.' The power of the Corporation to make the transfer has been, with excellent reason, denied. Nevertheless, it was done with an acquiescence on the part of the King, which is no less striking than the resolution of the colonists. From that time the fate of the Colony was decided, and it grew with remarkable rapidity and strength.

*First Charter granted to the Colony of MASSACHUSETTS BAY.**Dated the 4th March, 1628.*

CHARLES, by the grace of God, King of England, Scotland, France, and Ireland, Defender of the Faith, &c.

To all to whom these Presents shall come, Greeting.

WHEREAS our most deare and royal Father King James of blessed memory, by his Highness's letters patents beareing date at Westminster the third day of November, in the eighteenth year of his reign, hath given and granted unto the Councel established at Plymouth in the county of Devon, for the planting, ruling, ordering and governing of New England in America, and to their heirs successours and assignes for ever: All that part of America lying and being in breadth from fourty degrees of northerly latitude from the equinoxtiall line, to fourty-eight degrees of the said northerly latitude inclusively, and in length of and within all the breadth aforesaid throughout the maine lands from sea to sea, together also with all the firme lands, soyles, grounds, havens, ports, rivers, waters, fishing, mines, and mineralls, as well royall mines of gould and silver, as other mines and mineralls, precious stones, quarries, and all and singular other commodities, jurisdictions, privileges, franchises and prehemineneces both within the said tract of land upon the maine, and also within the islands and seas adjoining. Provided always that the said islands or any the premisses by the said letters patent intended and meant to be granted were not then actually possessed or inhabited by any other christian prince, or state, nor within the bounds limits or territories of the southern colonies then before granted by our said deare father to be planted by such of his loving subjects in the southern parts. To have and to hold, possess and enjoy all and singular the aforesaid continent, lands, territories, islands, hereditaments and precincts, seas, waters, fishings, with all and all manner their commodities, royalties, liberties, prehemineneces, and profits that should from thenceforth arise from thence, with all and singular their appurtenances, and every part and parcel thereof, unto the said Councel, and their successors and assignes for ever, to the sole and proper use, benefit and behoof of them the said Councel and their successors and assignes for ever: To be houlden of our said most dear and royal Father, his heirs and successors, as of his mannor of East-Greenwich in the county of Kent, in free and common soccage, and not in capite nor by knights service. Yielding and paying therefore to the said late king, his heirs and successors the fifth part of the oare of gould and silver which should from time to time and at all times then after happen to be found, gotten, had and obtained, in, at, or within any of the lands, limits, territories and precincts, or in or within any part or parcel thereof, for or in respect of all and all manner

Tenure.

Rent.

of duties, demands and services whatsoever to be done made or paid to our said dear Father the late King, his heirs and successors; as in and by the said letters patent (amongst sundry other clauses, powers, privileges and grants therein contained) more at large appeareth. And whereas the said Council established at Plymouth in the county of Devon, for the planting, ruling, ordering, and governing of New-England, in America, have by their deed indented under their common seal, bearing date the nineteenth day of March last past, in the third year of our reign, given, granted, bargained, sold, enfeoffed, aliened and confirmed to Sir Henry Rosewell, Sir John Young, knights, Thomas Southcott, John Humphrey, John Endicott and Symon Whetcomb, their heirs and associates for ever, all that part of New-England in America aforesaid, which lieth and extendeth between a great river there commonly called Monomack, alias Merrimack, and a certain other river there called Charles river, being the bottom of a certain bay there commonly called Massachusetts, alias Mattachusetts, alias Massatusetts bay, and also all and singular those lands and hereditaments whatsoever lying and being within the space of three English miles on the south part of the said Charles river, or of any or every part thereof, and also all and singular the lands and hereditaments whatsoever, lying and being within the space of three English miles to the southward of the southernmost part of the said bay called Massachusetts, alias Mattachusetts, alias Massatusetts bay, and also all those lands and hereditaments which lye and be within the space of three English miles to the northward of the said river called Monomack, alias Merrimack, or to the northward of any and every part thereof, and all lands and hereditaments whatsoever, lying within the limits aforesaid, north and south, in latitude and breadth, and in length and longitude, of and within all the breadth aforesaid, throughout the main lands there, from the Atlantick and western sea and ocean on the east part, to the south sea on the west part, and all lands and grounds, place and places, soils, wood and wood grounds, havens, ports, rivers, waters, fishing, and hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof, and also all islands lying in America aforesaid in the said seas or either of them on the western or eastern coasts or parts of the said tracts of lands by the said indenture mentioned to be given, granted, bargained, sold, enfeoffed, aliened and confirmed or any of them: And also all mines and mineralls, as well royall mines of gould and silver, as other mines and mineralls whatsoever in the said lands and premisses or any part thereof: And all jurisdictions, rights, royalties, liberties, freedoms, immunities, privileges, franchises, preheminencies, and commodities whatsoever, which they the said Council established at Plymouth in the county of Devon for the planting ruling ordering and governing of New-England in America then had or might use, exercise or enjoy, in and within the said lands and premisses by the said indenture mentioned to be given, granted, bargained, sold, enfeoffed and confirmed, or in or within any part or parcel thereof.

Recital of a grant of the province of the Massachusetts Bay. (being part of the premises before mentioned) by the Council of Plymouth to Sir Hen. Rosewell and others. March 19. 3 Car. I.

- Habendum.** To have and to hould the said part of New-England in America which lyeth and extends and is abutted as aforesaid, and every part and parcel thereof: And all the said islands, rivers, ports, havens, waters, fishings, mines and minerals, jurisdictions, franchises, royalties, liberties, priviledges, commodities, hereditaments and premisses whatsoever, with the appurtenances, unto the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott and Symon Whetcomb, their heirs and assignes, and their associates, to the only proper and absolute use and behoof of the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott and Symon Whetcomb, their heires and assignes, and associates for evermore.
- Tenure.** To be houlden of us, our heirs and successors, as of our mannor of East-Greenwich in the county of Kent, in free and common soccage, and not in capite, nor by knights service, yielding and paying therefore unto us, our heirs and successors, the fifth part of the oare of gould and silver which shall from time to time and at all times hereafter happen to be found, gotten, had and obtained, in any of the said lands within the said limits, or in or within any part thereof, for and in satisfaction of all manner of duties, demands and services whatsoever, to be done, made or paid to us, our heirs or successors, as in and by the said recited indenture more at lardge may appear. Now know ye, that we, at the humble suite and petition of the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Symon Whetcomb, and of others whom they have associated unto them, Have, for divers good causes and considerations us moving, granted and confirmed, and by these presents of our especial grace, certain knowledge and meere motion, do grant and confirm unto the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott, and Symon Whetcomb, and to their associates hereafter named (*vide licet*) Sir Richard Saltonstall, Knt., Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Nowell, Richard Perry, Richard Bellingham, Nathanael Wright, Samuel Vassall, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Browne, Samuel Browne, Thomas Hutchins, William Vassall, William Pinchon, and George Foxcroft, their heirs and assignes, all the said part of New England in America, lyeing and extending betweene the bounds and limits in the said recited indenture expressed, and all lands and grounds, place and places, soyles, wood and wood grounds, havens, ports, rivers, waters, mines, mineralls, jurisdictions, rights, royalties, liberties, freedoms, immunities, priviledges, franchises, preheminences, hereditaments and commodities whatsoever to them the said Sir Henry Rosewell, Sir John Younge, Thomas Southcott, John Humfrey, John Endecott and Symon Whetcombe, their heirs and assignes, and to their associates by the said recited indenture given, granted, bargained, sould, enfeofed, aliened and confirmed, or mentioned, or intended thereby to be given, granted, bargained, sould, enfeofed, aliened and confirmed. To have and to hould the said part of New England in America and other the premisses hereby mentioned to be granted and confirmed and every part or parcell thereof,
- Habendum.**
- Confirmation of the said last recited grant by the King.**

with the appurtenances, unto the said Sir Henry Rosewell, &c., their heirs and assigns for ever, to their only proper and absolute use and behoofe for evermore. To be holden of us Tenure.
our heirs and successours as of our mannor of East Greenwich
aforesaid in free and common socage, and not in capite nor
by knights service, and also yielding and paying therefore Rent.
to us our heirs and successours the fifth part only of all care
of gould and silver, which from time to time and at all times
hereafter shall be there gotten, had or obtained, for all services,
exactions and demands whatsoever, according to the tenure and
reservation in the said recited indenture expressed. And further Grant of the
same tract
of land to
the same
persons by
the King
himself.
know ye, that of our more especiall grace, certain knowledge and
mccore motion, we have given and granted, and by these presents
do for us our heirs and successors give and grant unto the said
Sir Henry Rosewell, &c., their heirs and assigns, all that part of
New-England in America which lies and extends between a great
river there commonly called Monomack river, alias Merrymack
river, and a certain other river there called Charles river, being in
the bottom of a certain bay there commonly called Massachusetts,
alias Mattachusetts, alias Massatusets bay, and also all and singular
those lands and hereditaments whatsoever lying within the space
of three English miles on the south part of the said river called
Charles river, or of any or every part thereof, and also all and
singular the lands and hereditaments whatsoever lying and being
within the space of three English miles to the southward of the
southermost part of the said bay called Massachusetts, alias
Mattachusetts, alias Massatusets bay. And also all those lands
and hereditaments whatsoever which lye and be within the space
of three English miles to the northward of the said river called
Monomack, alias Merrimack, or to the northward of any and every
part thereof, and all lands and hereditaments whatsoever lying
within the limits aforesaid north and south in latitude and breadth,
and in length and longitude of and within all the breadth afore-
said throughout the maine lands there, from the Atlantick and
western sea and ocean on the east part, to the south sea on the
west parte, and all lands and grounds, place and places, soyles,
wood and wood grounds, havens, ports, rivers, waters and here-
ditaments whatsoever lying within the said bounds and limits,
and every part and parcel thereof, and also all islands in America
aforesaid in the said seas or either of them, on the western or
eastern coastes, or partes of the said tracts of lands hereby men-
tioned to be given or granted or any of them, and all mines and
mineralls as well royall mines of gould and silver as other mines
and mineralls whatsoever in the said lands and premisses or any
part thereof, and free liberty of fishing in or within any the rivers
or waters within the bounds and limits aforesaid and the seas
thereunto adjoining, and all fishes, royal fishes, whales, balan,
sturgeon, and other fishes of what kind or nature soever, that
shall at any time hereafter be taken in or within the said seas or
waters or any of them, by the said Sir Henry Rosewell, &c., their
heirs and assigns, or by any other person or persons whatsoever
there inhabiting, by them or any of them appointed to fish therein.

Provisoe.

Provided always that if the said lands, islands, or any other the premisses herein before mentioned, and by these presents intended and meant to be granted, were at the time of the granting of the said former letters patents, dated the third day of November, in the eighteenth yaeare of our said deare fathers reigne aforesaid, actually possessed or inhabited by any other christian prince or state, or were within the bounds, limits, or territories of that southerne colonie then before granted by our said late father to be planted by divers of his loveing subjects in the south parts of America, that then this present grant shall not extend to any such parts or parcell thereof, so formerly inhabited or lying within the bounds of the southern plantation as aforesaid, but as to those parts or parcells so possessed or inhabited by such christian prince or state, or being within the bounds aforesaid, shall be utterly voide, these presents or any thing therein contained to

Habendum.

the contrary notwithstanding. To have and to hould, possess and enjoy the said parts of New-England in America, which lye, extend and are abutted as aforesaid and every part and parcell thereof, and all the islands, rivers, ports, havens, waters, fishings, fishes, mines, minerals, jurisdictions, franchises, royalties, liberties, priviledges, commodities and premisses whatsoever, with the appurtenances, unto the said Sir Henry Rosewell, &c., their heirs and assignes forever, to the only proper and absolute use and behoofe of the said Sir Henry Rosewell, &c., their heirs and assignes forevermore. To be houlden of us, our heirs and successours, as our mannor of East Greenwich in the county of Kent within our realme of England, in free and common soccage, and not in capite, nor by knights service, and also yeelding and paying therefore to us, our heires and successors the fifth part only of all oare of gould and silver which from time to time and at all times hereafter shall be there gotten, had or obtained, for all services, exactions and demands whatsoever. Provided alwayes and our expresse will and meaneing is, that onely one-fifth part of the gould and silver oare above mentioned in the whole, and no more, be reserved or payable unto us, our heirs and successours, by colour or vertue of these presents, the double reservations or recitals afore-

Necessity of
good go-
vernment
to the suc-
cess of the
intended
Plantation.

said, or any thing therein contained notwithstanding. *And for as much as the good and prosperous successe of the plantation of the said parts of New-England aforesaid intended by the said Sir Henry Rosewell, &c., to be speedily sett upon, cannot but chiefly depend, next under the blessing of Almighty God and the support of our royall authority, upon the good government of the same, to the end that the affairs and businesses which from time to time shall happen and arise concerning the said lands and the plantation of the same, may be the better managed and ordered.* We have further hereby

Incorporation of the
grantees of
the said
land.

of our especiall grace, certain knowledge and meere motion, given, granted and confirmed, and for us, our heirs and successours, do give, grant and confirme unto our said trustie and well-beloved subjects Sir Henry Rosewell, &c., and for us, our heirs, and successours, wee will and ordaine, That the said Sir Henry Rosewell, &c., and all such others as shall hereafter be admitted and made free of the companie and society hereafter mentioned, shall from time to time and at all times forever hereafter be by

virtue of these presents one body corporate politique in fact and name by the name of the Governor and companie of the Massachusetts Bay in New England: And them by the name of the Governor and Companie of the Massachusetts Bay in New England, one body politique and corporate in deed, fact and name, wee doe for us our heirs and successors make, ordaine, constitute and confirme by these presents, and that by that name they shall have perpetuall succession, and that by the same name they and their successors shall and may be capable and inabled, as well to impleade and to be impleaded, and to prosecute, demand and answer, and be answered unto, in all and singular suites, causes, quarrels, and actions, of what kind and nature soever. And also to have, take, possesse, acquire and purchase, any lands, tenements, or hereditaments, or any goods or chattells the same to lease, grant, demise, alien, bargain, sell and dispose of, as other our liege people of this our realme of England, or any other corporation or body politique of the same may lawfully doe. And further, that the said Governor and Companie and their successors may have forever one common seale to be used in all causes and occasions of the said Companie, and the same seale may alter, change, break and new make from time to time at their pleasures. And our will and pleasure is, and we do hereby for us, our heirs and successors, ordaine and grant, that from henceforth for ever there shall be one Governor, one deputy Governor, and eighteen Assistants of the same Companie, to be from time to time constituted, elected and chosen out of the freemen* of the said Companie for the time beinge, in such manner and forme as hereafter in these presents is expressed. Which said officers shall apply themselves to take care for the best disposing and ordering of the generall business and affaires of for and concerning the said lands and premisses hereby mentioned to be granted, and the plantation thereof, and the government of the people there. And for the better execution of our royall pleasure and grant in this behalfe, we do by these presents, for us our heirs and successors, nominate, ordaine, make, and constitute our well beloved the said Matthew Craddock, to be the first and present Governor of the said Companie, and the said Thomas Goffe to be deputy Governor of the said Companie, and the said Sir Richard Saltonstall, Isaac Johnson, Samuel Aldersey, John Ven, John Humfrey, John Endecott, Symon Whetcombe, Increase Nowell, Richard Perry, Nathaniel Wright, Samuel Vassall, Theophilus Eaton, Thomas Adams, Thomas Hutchins, John Browne,

Name of the Corporation

Perpetual Succession.

Capacity to plead and be impleaded.

Capacity to purchase Lands or Goods; and to grant or sell them.

Common Seal.

The Government of the said Corporation

A Governor and eighteen Assistants.

Their Power and Duty.

Nomination of the first Governor and Assistants.

* Owing, as it is inferred, to the sacrifices made by the first promoters in the first General Court which was assembled in Massachusetts, the election of the Governor, the appointment of all the other officers, and even the power of legislation were withdrawn from the freemen and vested in the Council of Assistants; and although the freemen reclaimed and resumed their rights in the following year, yet the exercise of legislation was confined almost entirely to the Council of Assistants, till the introduction of the Representative system in the year 1634. From this time the Council and Freemen assembled together formed the General Court, till the year 1644, when it was arranged that the Governor and Assistants should sit apart; and thence commenced the separate existence of the democratic branch of the Legislature or House of Representatives.—*Grahame*, vol. i. p. 237.

Power to
assemble
the said
Companie.

Monthly
Courts, or
Assemblies,
of the Go-
vernor and
Assistants.

Four gene-
ral Courts
of the said
Company in
a Year.

Power to
elect Free-
men of the
said Com-
pany ;

and to elect
officers of
the same ;

and to make
laws and or-
dinances for
the same.

The Gover-
nor and
deputy

George Foxcroft, William Vassall, and William Pinchon to be the present Assistants of the said Companie to continue in the said several offices respectively for such time and in such manner as in and by these presents is hereafter declared and appointed. And further we will, and by these presents, for us, our heirs and successors, do ordaine and grant that the Governor of the said Companie for the time being, or in his absence, by occasion of sickness or otherwise, the deputy Governor for the time being shall have authority from time to time, upon all occasions, to give order for the assembling of the said Companie, and calling them together to consult and advise of the business and affaires of the said Companie. And that the said Governor, deputy Governor and Assistants of the said Companie for the time being, shall or may once every month, or oftener at their pleasures, assemble and hould and keep a court or assembly of themselves for the better ordering and directing of their affairs. And that any seven or more persons of the Assistants, together with the Governor or deputy Governor so assembled, shall be said, taken, held, and reputed to be, and shall be a full and sufficient court or assembly of the said Companie, for the handling, ordering and dispatching of all such businesses and occurrents, as shall from time to time happen, touching or concerning the said Companie or plantation. And that there shall or may be held and kept by the Governor or deputy Governor of the said Companie, and seven or more of the said Assistants for the time being, upon every last Wednesday in Hillary, Easter, Trinity, and Michaelmas Termes respectively for ever, one great, generall and solemn assembly, which four general Assemblies shall be styled and called, the foure greate and generall courts of the said Company : In all or any of which said greate and generall courts so assembled, We do, for us, our heires, and successours, give and grant to the said Governour and Companie and their successours, that the Governour, or in his absence the deputy Governour, of the said Companie for the time being, and such of the Assistants and freemen of the said Companie, as shall be present or the greater number of them so assembled, whereof the Governour or deputy Governour and six of the Assistants, at the least to be seven, shall have full power and authority to choose, nominate and appoint such and so many others as they shall thinke fitt, and that shall be willing to accept the same, to be free of the said Company and Body, and them into the same to admit : *And to elect and constitute such officers as they shall thinke fitt and requisite for the ordering, managing and dispatching of the affaires of the said Governor and Companie and their successours :* AND TO MAKE LAWS AND ORDINANCES FOR THE GOOD AND WELFARE OF THE SAID COMPANIE, AND FOR GOVERNMENT AND ORDERING OF THE SAID LANDS AND PLANTATION, AND THE PEOPLE INHABITEING AND TO INHABITE THE SAME, AS TO THEM FROM TIME TO TIME SHALL BE THOUGHT MEETE. So as such lawes and ordinances be not contrary or repugnant to the laws and statutes of this our realme of England. And our will and pleasure is, and we do hereby for us, our heires and successours establish and ordaine, That yearly once in the yeare forever hereafter, namely the last Wednesday in Easter

terme yearly, the Governour, deputy Governour and Assistants of the said Companie and all other officers of the said Companie shall be in the generall court, or assemblie, to be held for that day or time, newly chosen for the yeare insueing by such greater part of the said Companie for the time being, then and there present, as is aforesaid. And if it shall happen the present Governour, deputy Governour and Assistants by these presents appointed, or such as shall hereafter be newly chosen into their rooms, or any of them, or any other of the officers to be appointed for the said Companie, to dye, or to be removed from his or their severall offices or places before the said generall day of election (whom we do hereby declare for any misdemeanor or defect to be removable by the Governor, deputy Governor, Assistants and Companie, or such greater part of them in any of the publick courts to be assembled as is aforesaid) that then and in every such case it shall and may be lawfull to and for the Governour, deputy Governour, Assistants, and Companie aforesaid, or such greater part of them so to be assembled as is aforesaid, in any of their assemblies to proceed to a new election of one or more others of their Companie in the room or place, rooms or places, of such officer or officers so dyeing or removed, according to their discretions. And immediately upon and after such election and elections made of such Governour, deputy Governour, Assistant or Assistants or any other officer of the said Companie in manner and forme aforesaid, the authority, office, and power before given to the former Governour, deputy Governour, or other officer and officers so removed, in whose stead and place new shall be so chosen, shall as to him and them and every of them cease and determine. Provided also, and our will and pleasure is that as well such as are by these presents appointed to be the present Governour, deputy Governour and Assistants, of the said Companie, as those that shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before they undertake the execution of their said offices and places respectively, take their corporall oathes for their due and faithfull performance of their duties in their several offices and places before such person or persons as are by these presents hereunder appointed to take and receive the same, that is to say, the said Matthew Craddock, who is hereby nominated and appointed the present Governour of the said Companie, shall take the said oathes before one or more of the Masters of our court of chancery for the time being, unto which Master or Masters of the Chancery we do by these presents give full power and authority to take and administer the said oath to the said Governour accordingly. And after the said Governour shall be so sworne, then the said Deputy Governour and Assistants before by these presents nominated and appointed, shall take the said several oathes, to their offices and places respectively belonging, before the said Matthew Craddock the present Governour so sworne as aforesaid. And every such person as shall at the time of the annuall election, or otherwise, upon death or removal, be appointed to be the new Governour of the said Companie,

Governor, and Assistants, shall be chosen every year at Easter.

Manner of supplying vacancies in the offices of the said Company, occasioned by deaths or removals.

Power given to the Company to remove their officers for misbehaviour.

The officers of the Company shall take an oath of office.

Power to carry over to New England such persons as are willing to go thither, together with cattle, and other things necessary for their subsistence.

Exemption from the payment of customs or subsidies in England for seven years. An extraordinary instance of dispensing power.

Exemption from taxes and customs in New England for seven years; and from all duties upon importation or exportation of goods, except 5 per Cent. upon goods imported into England, or other domi-

shall take the oathes to that place belonging before the Deputy Governour or two of the Assistants of the said Companie at the least for the time being. And the new elected Deputy-Governour and Assistants, and all other officers to be hereafter chosen as aforesaid from time to time, shall take the oathes to their places respectively belonging, before the Governour of the said Companie for the time being. Unto which said Governour, Deputy-Governour, and Assistants, we do by these presents give full power and authority to give and administer the said oathes respectively, according to the true meaning herein before declared, without any commission or further warrant to be had and obtained of us, our heirs and successors in that behalfe. And we do further of our especial grace, certain knowledge, and meere motion, for us, our heirs and successors, give and grant to the said Governour and Companie and their successors for ever by these presents, that it shall be lawfull and free for them and their assignes at all and every time and times hereafter, out of any of our realmes and dominions whatsoever, to take, leade, carry, and transport for, in, and into their voyages, and for and towards the said plantation in New England, all such and so many of our loving subjects or any other strangers that will become our loving subjects and live under our allegiance, as shall willingly accompany them in the same voyages and plantation, and also shipping, armour, weapons, ordinance, ammunition, powder, shott, corne, victuals, and all manner of clothing, implements, furniture, beasts, cattle, horses, mares, merchandizes, and all other things necessary for the said plantation, and for their use and defence, and for trade with the people there, and in passing and returning to and fro, any law or statute to the contrary hereof in any wise notwithstanding, and without paying or yeelding any custome or subsidie, either inward or outward, to us, our heirs or successors, for the same, by the space of seven yeares from the day of the date of these presents. Provided that none of the said persons be such as shall be hereafter by speciall name restrained by us, our heirs or successors. And for their further incouragement, of our especial grace and favour, we do by these presents for us, our heirs and successors, yeeld and grant to the said Governor and Companie and their successors and every of them, their factors and assignes, that they and every of them shall be free and quitt from all taxes, subsidies, and customes in New-England for the like space of seven years, and from all taxes and impositions for the space of twenty and one yeares upon all goods and merchandises at any time or times hereafter, either upon importation thither, or exportation from thence, into our realm of England, or into any other of our dominions, by the said Governour and Companie and their successors, their deputies, factors and assignes, or any of them, except only the five pound per centum due for custome upon all such goods and merchandises, as after the said seven years shall be expired shall be brought or imported into our realme of England, or any other of our dominions, according to the ancient trade of merchants: which five pounds per centum onely being paid, it shall be thenceforth lawfull and free for the said

adventurers the same goods and merchandizes to export and carry out of our said dominions into forreine parts, without any custome, tax or other duty to be paid to us, our heires or successours, or to any other officers or ministers of us, our heires and successours. Provided that the said goods and merchandizes be shipped out within thirteen months after their first landing within any part of the said dominions. And we do for us, our heires and successours, give and grant unto the said Governour and Companie and their successours, that whensoever, or so often as any custome or subsidie shall grow due or payable unto us, our heires or successours, according to the limitation and appointment aforesaid, by reason of any goods, wares or merchandises to be shipped out, or any return to be made of any goods, wares or merchandises, unto or from the said ports of New-England hereby mentioned to be granted as aforesaid, or any the lands and territories aforesaid, that then and so often and in such case, the farmers, customers, and officers of our custums of England and Ireland, and every of them for the time being, upon request made to them by the said Governour and Company or their successours, factors, or assignes, and upon convenient security to be given in that behalfe, shall give and allowe unto the said Governour and Companie and their successors, and to all and every person and persons free of that Companie as aforesaid, six months time for the payment of one halfe of all such custome and subsidie as shall be payable unto us, our heirs and successours, for the same, for which these our letters patents, or the duplicate, or the inrollment thereof, shall be unto our said officers a sufficient warrant and discharge. Nevertheless, our will and pleasure is, that any of the said goods, wares and merchandises which be or shall be at any time hereafter landed or exported out of any of our realmes aforesaid, and shall be shipped with a purpose not to be carried to the parts of New-England aforesaid, but to some other place, that then such payment, dutie, custome, imposition or forfeiture shall be paid or belong to us, our heires and successors, for the said goods, wares and merchandise so fraudulently sought to be transported, as if this our grant had not been made or granted. And wee do further will and by these presents for us, our heirs and successors, firmly enjoin and commande as well the Treasurer, Chancellor and Barons of the Exchequer of us our heires and successors, as also all and singular the customers, farmers and collectors of the customes, subsidies and imposts, and other the officers and ministers of us, our heires and successors, whatsoever, for the time being, that they and every of them, upon the shewing forth unto them of these letters patents, or the duplicate or exemplification of the same, without any other writt or warrant whatsoever from us, our heires or successors, to be obtained or sued forth, do and shall make full, whole, entire and due allowance and cleare discharge unto the said Governour and Companie and their successors, of all customes, subsidies, impositions, taxes and duties whatsoever that shall or may be claymed by us, our heires and successors, of or from the said Governor and Companie and their

nions of the crown, for a further term of twenty-one years.

Liberty of re-exporting the said goods into foreign parts.

Proviso.

Six months time shall be allowed for the payment of one half of the said custome

Provision against a fraudulent exportation of goods to foreign countries, under a pretence of carrying them to New-England.

Warrant to the officers of the Exchequer and Customs to allow to the said company the exemptions above mentioned.

successors, for or by reason of the said goods, chattels, wares, merchandises and premises to be exported out of our said dominions, or any of them, into any part of the said lands or premises hereby mentioned to be given, granted and confirmed, or for or by reason of any of the said goods, chattels, wares or merchandises to be imported from the said lands and premises hereby mentioned to be given, granted and confirmed, into any of our said dominions or any part thereof as aforesaid, excepting only the said five pounds per centum hereby reserved and payable after the expiration of the said terme of seven years as aforesaid and not before. And these our letters patents, or the inrollment, duplicate or exemplification of the same, shall for ever hereafter from time to time, as well to the Treasurer, Chancellor and Barons of the Exchequer of us our heires and successors, as to all and singular the customers, Farmers and Collectors of the customs subsidies and imposts of us our heires and successors, and all searchers and other the officers and ministers whatsoever of us our heires and successors for the time being, be a sufficient warrant and discharge in this behalfe. And further our will and pleasure is, and we doe hereby for us, our heires and successors, ordaine, declare and grant to the said Governour and Companie and their successors, That all and every the subjects of us, our heires or successors, which shall goe to and inhabite within the said lands and premisses hereby mentioned to be granted, and every of their children which shall happen to be borne there, or on the seas in going thither or returneing from thence, shall have and enjoy all liberties and immunities of free and naturall subjects within any of the dominions of us, our heires or successors, to all intents, constructions and purposes whatsoever, as if they and every of them were borne within the realme of England. And that the Governour, and deputy Governour of the said Companie for the time being or either of them, and any two or more of such of the said Assistants as shall be thereunto appointed by the said Governour and Companie at any of their courts or assemblies to be held as aforesaid, shall and may at all tymes and from tyme to tyme hereafter have full power and authority to administer and give the oath and oathes of supremaeie and allegiance or either of them, to all and every person and persons which shall at any tyme or tymes hereafter goe or passe to the lands and premisses hereby mentioned to be granted to inhabite in the same. And wee do of our further grace, certaine knowledge and meere motion, give and grant to the said Governour and Companie and their successors, that it shall and may be lawfull to and for the Governour or deputy Governour and such of the Assistants and Freemen of the said Companie for the time being as shall be assembled in any of their generall courts aforesaid, or in any other courts to be specially summoned and assembled for that purpose, or the greater part of them (whereof the Governour or deputy Governour and sixe of the Assistants to be always seven) *from tyme to tyme to make, ordaine and establish all manner of wholesome and reasonable orders, lawes, statutes and ordinances, directions and instructions not con-*

Persons that shall be born in the lands hereby granted shall be considered as natural born subjects.

Power to administer the oaths of allegiance and supremacy to the persons who shall hereafter settle in the lands hereby granted.

Power to make laws and ordinances not contrary to the laws of England.

trary to the lawes of this our realme of England, as well for the settling of the formes and ceremonies of government and magistracie fitt and necessary for the said plantation and the inhabitants there, and for naming and styling of all sorts of officers both superiour and inferiour which they shall find needful for that government and plantation, and the distinguishing and setting forth of the severall duties, powers and limits of every such office and place, and the formes of such oathes warrantable by the lawes and statutes of this our realme of England as shall be respectively ministered unto them, for the execution of the said severall offices and places, as also for the disposing and ordering of the elections of such of the said officers as shall be annual, and of such others as shall be to succeed in case of death or removall, and ministring the said oathes to the new elected officers, and for imposition of lawfull fynes, mulcts, imprisonment, or other lawfull correction, according to the course of other Corporations in this our realme of England, and for the directing, ruleing, and disposing of all other matters and things whereby our said people inhabiting there may be so religiously, peaceably, and civilly governed, as their good life and orderly conversation may winne and invite the natives of that country to the knowledge and obedience of the onely true God and Saviour of mankind, and the christian faith, which in our royall intention and the adventurers free profession is the principal end of this plantation. Willing, commanding, and requiring, and by these presents for us, our heires, and successors, ordaineing and appointing, that all such orders, lawes, statutes, and ordinances, instructions, and directions, as shall be made by the Governour or Deputy-Governour of the said Company and such of the Assistants and Freemen as aforesaid, and published in writing under their common seale, shall be carefully and duly observed, kept, performed, and putt in execution according to the true intent and meaneing of the same. And these our letters patents, or the duplicate, or exemplification thereof, shall be to all and every such officers, superiour and inferiour, from tyme to tyme, for the putting of the same orders, lawes, statutes, and ordinances, instructions, and directions, in due execution, against us, our heires, and successors, a sufficient warrant and discharge. And wee doe further, for us, our heirs, and successors, give and grant to the said Governour and Companie and their successors, by these presents, That all and every such chiefe commanders, captains, governours, and other officers and ministers, as by the said orders, lawes, statutes, ordinances, instructions, or directions of the said Governour and Companie for the tyme being, shall be from tyme to tyme hereafter employed either in the government of the said inhabitants and plantation, or in the way by sea thither or from thence, according to the natures and limits of their offices and places respectively, shall from tyme to tyme hereafter for ever within the precincts and parts of New-England hereby mentioned to be granted and confirmed, or in the way by sea thither, or from thence, have full and absolute power and authority to correct, punish, pardon, governe, and rule such subjects of us, our heires, and successors, as shall from tyme to tyme adventure themselves in

N. B.

All such laws published in writing under the common seal of the company, shall be observed and executed.

The governours and other officers employed by the company in New-England shall govern the inhabitants thereof according to the said laws.

Power to the officers of the said company resident in the premisses hereby granted and to the other inhabitants of the same to defend themselves by force of arms against invaders.

Provision for the case of injuries committed by the members of the said company against others of the King's subjects, or the subjects of any other Prince or State.

Proviso reserving to the King's

any voyage thither or from thence, or that shall at any tyme hereafter inhabite within the precincts and parts of New-England aforesaid, according to the orders, lawes, ordinances, instructions, and directions aforesaid, not being repugnant to the lawes and statutes of our realme of England as aforesaid. And wee do further, for us, our heires, and successors, give and grant to the said Governour and Companie and their successors, by these presents, That it shall and may be lawfull to and for the chief commanders, governours, and officers of the said companie for the tyme being, who shall be resident in the said part of New-England in America by these presents granted, and others there inhabiteing, by their appointment and direction from tyme to tyme and at all tymes hereafter, for their speciall defence and safety to incounter, repulse, repell, and resist by force of armes, as well by sea as by land, and by all fitting wayes and meanes whatsoever, all such person and persons as shall at any tyme hereafter attempt or enterprise the destruction, invasion, detriment, or annoyance of the said plantation or inhabitants: And to take and surprise by all wayes and meanes whatsoever all and every such person and persons, with their shippes, armour, munition, and other goods, as shall in hostile manner invade and attempt the defeatinge of the said plantation, or the hurt of the said Companie and inhabitants. Nevertheless, our will and pleasure is, and we do hereby declare to all Christian Kings, Princes, and States, That if any person or persons which shall hereafter be of the said Companie or plantation, or any other by lycense or appointment of said Governour and Companie for the tyme being, shall at any tyme or tymes hereafter robb or spoyle by sea or by land, or do any hurt, violence, or unlawfull hostility to any of the subjects of us, our heires, or successors, or any of the subjects of any Prince or State being then in league and amity with us, our heires, and successors, and that upon such injury done, and upon just complaint of such Prince or State or their subjects, Wee, our heires, or successors, shall make open proclamation within any of the parts within our realme of England commodious for that purpose, that the person or persons having committed any such robbery or spoyle, shall, within the terme limited by such a proclamation, make full restitution or satisfaction of all such injuries done, so as the said Princes or others so complaining may hould themselves fully satisfied and contented. And that if the said person or persons having committed such robbery or spoyle shall not make, or cause to be made, satisfaction accordingly, within such tyme so to be lymitted, that then it shall be lawfull for us, our heires and successors, to putt the said person or persons out of our allegiance and protection: and that it shall be lawfull and free for all Princes to prosecute with hostility the said offenders and every of them, their and every of their procurers, ayders, abettors and comforters in that behalfe. Provided also, and our expresse will and pleasure is, and wee do by these presents for us, our heires and succes-sors, ordaine and appoint, that these presents shall not in

any manner enure, or be taken to abridge, barre or hinder any of our lovinge subjects whatsoever to use and exercise the trade of fishing upon that coast of New-England in America by these presents mentioned to be granted : But that they or any and every or any of them shall have full and free power and liberty to continue and use their said trade of fishing upon the said coast in any of the seas thereunto adjoineing, or any armes of the seas or salt-water rivers where they have beene wont to fish, and to build and set up upon the lands by these presents granted, such wharves, stages, and workhouses as shall be necessary for the salt-ing, drying, keeping and packing up of their fish to be taken or gotten upon that coast ; and to cut downe and take such trees and other materialls there growing, or being, as shall be needfull for that purpose, and for other necessary easements, helpes and advantage concerning their said trade of fishing there, in such manner and forme as they have beene heretofore at any tyme accustomed to doe, without makinge any wilfull waste or spoyle, any thing in these presents contained to the contrary notwithstanding. And wee doe further for us, our heires and successors, ordaine and grant the said Governour and Companie and their successors, by these presents, that these our letters patents shall be firme, good, effectual, and available in all things and to all intents and constructions of lawe, according to our true meaning herein before declared, and *shall be construed, reputed, and adjudged in all cases most favourably on the behalfe and for the benefit and behoofe of the said Governour and Companie and their successors* : Although expresse mention of the true yearly value, or certainty, of the premisses, or any of them, or of any other gifts or grants, by us or any other of our progenitors or predecessors, to the foresaid Governour and Companie before this time made, in these presents is not made, or any statute, act, ordinance, provision, proclamation, or restraint to the contrary thereof heretofore had, made, published, ordained or provided, or any other matter, cause, or thing whatsoever to the contrarie thereof in any wise notwithstanding. In witness whereof we have caused these our letters to be made patent. Witness ourselves at Westminster, the fourth day of March, in the fourth yeare of our reigne.

These letters patents shall be good in law, and shall be construed in favour of the company, notwithstanding any omissions or imperfections in them or any former statutes or other act of authority to the contrary.

This is a true copy of such letters patents under the great seal of England. In testimony whereof I John Winthrop governour of the Massachusetts aforesaid have caused the publick seal of the same to be hereunto affixed this 19th day of the month called March 1643.

(Loc.
Sigilli.)

1644.

JOHN WINTHROP, Gov.

CONNECTICUT.

IN the year 1636, the incessant flow of emigration to Massachusetts causing the inhabitants of some of the towns to feel themselves straitened for room, suggested the formation of additional establishments. A project of founding a new settlement on the banks of the river Connecticut was then embraced by Hooker, one of the ministers of Boston, and a hundred of the members of his congregation. Hooker and his associates at first carried with them a commission from the government of Massachusetts, for the administration of justice in their new settlement; but, subsequently ascertaining that their territory was beyond the jurisdiction of the authorities from whom the commission was derived, they combined themselves, by a voluntary association, into a body politic, constructed on the model of the colonial society from which they had separated. They continued in this condition till the Restoration, when they obtained a charter for themselves from King Charles the Second. Another settlement which had been made at Newhaven was then incorporated with them, and the same provisions indifferently made to apply to both. The Charter itself, dated 1662, was almost in every respect the same with that which was framed for Rhode Island, at the same date, or a few weeks earlier. The most considerable differences were these only, that by the Connecticut Charter, the Governor was directed to administer the oaths of allegiance and supremacy to the inhabitants—a formality which was not required by the Charter of Rhode Island, where many of the people scrupled to take an oath, and on behalf of which its suitor, Clarke, had made ostentatious professions of loyalty; also that by the last-mentioned Charter, liberty of conscience was expressly conceded to its fullest extent, while the other makes no express mention of the concerns of religion, and no other allusion to them, than what might seem to be implied in the requisition of the oath of supremacy. On the whole, it gave such satisfaction to the Connecticut colonists, that Winthrop, the son of the Governor of Massachusetts, who had come to England as deputy to obtain it, was received on his return with grateful approbation, and annually chosen Governor of the Colony as long as he lived.

In the general attack which was made upon the Charters about 1686, a *quo warranto* was issued against Connecticut, amongst the rest, but the King's impatience would not allow him to wait for its result. In conformity with his orders, Andros, who had been appointed Governor of New England, marched at the head of a body of troops to Hartford,—the seat of the Provincial Government,—and demanded that the Charter should be delivered into his hands. Thereupon, a remarkable scene ensued, which—as an evidence how dearly such charters were valued—I shall here give in the language of Grahame. ‘The Charter,’ he says, ‘was laid upon the table of the Assembly, and some of the

principal inhabitants of the Colony addressed Andros at considerable length, relating the exertions that had been made and the hardships that had been incurred, in order to found the institutions which he was come to destroy; entreating him yet to spare them, or, at least, to leave the people in possession of the patent, as a testimonial of the favour and happiness they had hitherto enjoyed. The debate was earnest but orderly, and protracted to a late hour in the evening. As the day declined, lights were introduced into the hall, which was gradually surrounded by a numerous concourse of the bravest and most determined men in the province, prepared to defend their representatives against the apprehended violence of Andros and his armed followers. At length, finding that their arguments were ineffectual, a measure, supposed to have been previously concerted by the inhabitants, was coolly, resolutely, and successfully conducted. The lights were extinguished as if by accident; and Captain Wadsworth, laying hold of the Charter, disappeared with it before they could be rekindled. He conveyed it securely through the crowd, who opened to let him pass, and closed their ranks as he proceeded, and deposited it in the hollow of an ancient elm tree, which retained the precious deposit till the era of the English Revolution, and was long regarded with veneration by the people as the memorial and associate of a transaction so interesting to their liberties.' When Andros was deposed in 1689, the Charter reappeared from its concealment; and the municipal constitution, which had not been either expressly surrendered or legally dissolved, was instantly restored with universal satisfaction.

*The Charter granted to the Colony of CONNECTICUT, by King
CHARLES II., in the Fourteenth Year of his Reign.*

CHARLES the Second, by the grace of God, &c., to all to whom these presents shall come, greeting. Whereas by the several navigations, discoveries, and successful plantations of divers of our loving subjects of this our realm of England, several lands, islands, places, colonies, and plantations, have been ordained and settled in that part of the continent of America called New-England, and thereby the trade and commerce there hath been of late years much increased; and whereas we have been informed by the humble petition of our trusty and well-beloved John Winthrop, John Mason, Samuel Willis, Henry Clarke, Matthew Allen, John Tappen, Nathan Gold, Richard Treat, Richard Lord, Henry Woolcot, John Talcott, Daniel Clerke, John Ogen, Thomas Wells, Obadiah Brewen, John Clerke, Anthony Hawkins, John Deming, and Matthew Carnfield, being persons principally interested in our colony or plantation of Connecticut, in New-England, that the same colony, or the greatest part thereof, was purchased and obtained for great and valuable considerations, and some other part thereof gained by conquest, and with much difficulty, and at the only endeavours, expence, and charge of them

Incorporation of the governor and company of Connecticut.

Name of the corporation.

Common Seal.

Government.

A governor, deputy governor, and twelve assistants, to be chosen out of the freemen of the company.

and their associates, and those under whom they claim, subdued and improved, and thereby become a considerable enlargement and addition of our dominions and interest there: now know ye, that in consideration thereof, and in regard the said colony is remote from other the English plantations in the places aforesaid, and to the end the affairs and business, which shall from time to time happen or arise concerning the same, may be duly ordered and managed, we have thought fit, at the humble petition of the persons aforesaid, and are graciously pleased to create and make them a body politick and corporate, with the powers and privileges herein after mentioned; and accordingly our will and pleasure is, and our especial grace, certain knowledge, and mere motion, we have ordained, constituted, and declared, and by these presents, for us, our heirs, and successors, do ordain, constitute, and declare that they, the said John Winthrop, John Mason, Samuel Willis, Henry Clerke, Matthew Allen, John Tappen, Nathan Gould, Richard Treate, Richard Lord, Henry Wollcott, John Talcott, Daniel Clerke, John Ogden, Thomas Wells, Obadiah Brewen, John Clerke, Anthony Hawkins, John Deming, and Matthew Camfield, and all such others as now are, or hereafter shall be, admitted and made free of the company and society of our colony of Connecticut, in America, shall, from time to time, and for ever hereafter, be one body corporate and politick, in fact and name, by the name of Governor and Company of the English colony of Connecticut, in New-England, in America; and that by the same name they, and their successors, shall and may have perpetual succession, and shall and may be persons able and capable in the law to plead and be impleaded, to answer and to be answered unto, to defend and be defended, in all and singular suits, causes, quarrels, matters, actions, and things, of what kind or nature soever; and also, to have, take, possess, acquire, and purchase lands, tenements, or hereditaments, or any goods or chattels, and the same to lease, grant, demise, alien, bargain, sell, and dispose of, as our other liege people of this our realm of England, or any other corporation or body politick within the same, may lawfully do. And further, That the said governor and company, and their successors, shall and may, for ever hereafter, have a common seal to serve and use for all causes, matters, things, and affairs whatsoever, of them and their successors, and the same seal to alter, change, break, and make new, from time to time, at their wills and pleasures, as they shall think fit. And further, we will and ordain, and by these presents, for us, our heirs and successors, do declare and appoint, That, for the better ordering and managing of the affairs and business of the said company, and their successors, there shall be one governor, one deputy governor, and twelve assistants, to be, from time to time, constituted, elected, and chosen, out of the freemen of the said company, for the time being, in such manner and form as hereafter, in these presents, is expressed; which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the lands and hereditaments herein after-mentioned to be granted,

and the plantation thereof, and the government of the people thereof. And for the better execution of our royal pleasure herein, we do, for us, our heirs and successors, assign, name, constitute, and appoint the aforesaid John Winthrop to be the first and present governor of the said company, and the said John Mason to be the deputy governor, and the said Samuel Willis, Matthew Allen, Nathan Gould, Henry Clerke, Richard Treate, John Odgden, Thomas Tappen, John Talcott, Thomas Wells, Henry Woolcott, Richard Lord, and Daniel Clerke, to be the twelve present assistants of the said company, to continue in the said several offices respectively until the second Thursday, which shall be in the month of October, now next coming. And further, we will, and by these presents, for us, our heirs and successors, do ordain and grant, That the governor of the said company, for the time being, or, in his absence, by occasion of sickness, or otherwise, by his leave or permission, the deputy governor, for the time being, shall and may, from time to time, upon all occasions, give order for the assembling of the said company, and calling them together, to consult and advise of the business and affairs of the said company; and that, for ever hereafter, twice in every year, that is to say, on every second Thursday in October, and on every second Thursday in May, or oftener, in case it shall be requisite, the assistants and freemen of the said company, or such of them, not exceeding two persons from each place, town, or city, who shall be, from time to time, thereunto elected or deputed by the major part of the freemen of the respective towns, cities, and places for which they shall be so elected or deputed, shall have a general meeting or assembly, then and there to consult and advise in and about the affairs and business of the said company; and that the governor, or in his absence the deputy governor, of the said company, for the time being, and such of the assistants and freemen of the said company as shall be so elected or deputed, and be present at such meeting or assembly, or the greatest number of them, whereof the governor, or deputy governor, and six of the assistants, at least, to be seven, shall be called the general assembly, and shall have full power and authority to alter and change their days and times of meeting, or general assemblies, for electing the governor, deputy governor, and assistants, or other officers, or any other courts, assemblies, or meetings, and to chuse, nominate, and appoint such, and so many other persons as they shall think fit, and shall be willing to accept the same, to be free of the said company and body politick, and them into the same to admit, and to elect and constitute such officers as they shall think fit and requisite for the ordering, managing, and disposing of the affairs of the said governor and company, and their successors. And we do hereby, for us, our heirs and successors, establish and ordain, That once in the year, for ever hereafter, namely, the said second Thursday in May, the governor, deputy governor, and assistants of the said company, and other officers of the said company, or such of them as the said general assembly shall think fit, shall be, in the said general court and assembly, to be held from that day or time, newly chosen for the year ensuing, by such greater part of the said company, for

General assembly.

Two assemblies shall be held in every year, in May and October.

One or two members to be chosen by every town.

Power of the general assembly.

The Governor, deputy governor, and assistants, and all other officers of the company shall be chosen every year by the general assembly in the month of May.

Accidental vacancies in any of these offices may be supplied by the general assembly at any other meeting of it.

Power to remove the governor, or any other officer of the company, for any misdemeanor.

Oaths of office to be taken by the governor, and all other officers.

the time being, then and there present. And if the governor, deputy governor, and assistants, by these presents appointed, or such as hereafter be newly chosen into their rooms, or any of them, or any other the officers to be appointed for the said company, shall die, or be removed from his or their several offices or places before the said general day of election, (whom we do hereby declare, for any misdemeanor or default, to be removeable by the governor, assistants, and company, or such greater part of them, in any of the said public courts to be assembled, as is aforesaid) that then, and in every such case, it shall and may be lawful to and for the governor, deputy governor, and assistants, and company aforesaid, or such greater part of them so to be assembled, as is aforesaid in any of their assemblies, to proceed to a new election of one or more of their company, in the room or place, rooms or places, of such governor, deputy governor, assistant, or other officer or officers so dying, or removed, according to their discretions. And immediately upon, and after such election, or elections, made of such governor, deputy governor, assistant, or assistants, or any other officer of the said company, in manner and form aforesaid, the authority, office, and power before given to the former governor, deputy governor, or other officer and offices so removed, in whose stead and place new shall be chosen, shall, as to him and them, and every of them respectively, cease and determine. Provided also, and our will and pleasure is, That as well such as are by these presents appointed to be the present governor, deputy governor, and assistants of the said company, as those that shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before they undertake the execution of their said offices and places respectively, take their several and respective corporal oaths, for the due and faithful performance of their duties in the several offices and places, before such person or persons as are, by these presents, hereafter appointed to take and receive the same; that is to say, The said John Winthrop, who is herein before nominated and appointed the present governor of the said company, shall take the said oath before one or more of the masters of our court of chancery, for the time being; unto which master of chancery we do, by these presents, give full power and authority to administer the said oath to the said John Winthrop accordingly: and the said John Mason, who is herein before nominated and appointed the present deputy governor of the said company, shall take the said oath before the said John Winthrop, or any two of the assistants of the said company; unto whom we do, by these presents, give full power and authority to administer the said oath to the said John Mason accordingly; and the said Samuel Willis, Henry Clerke, Matthew Allen, John Tappen, Nathaniel Gould, Richard Treate, Richard Lord, Henry Woolcott, John Talcott, Daniel Clerke, John Ogden, and Thomas Wells, who are herein before nominated and appointed the present assistants of the said company, shall take the oath before the said John Winthrop, and John Mason, or one of them; to whom we do hereby give full power and authority to administer the same accordingly. And our further will and pleasure is, That

all and every governor, or deputy governor, to be elected and chosen, by virtue of these presents, shall take the said oath before two or more of the assistants of the said company, for the time being; unto whom we do, by these presents, give full power and authority to give and administer the said oath accordingly. And the said assistants, and every of them, and all or every other officer or officers to be hereafter chosen, from time to time, to take the said oath before the governor, or deputy governor, for the time being; unto which said governor, we do, by these presents, give full power and authority to administer the same accordingly. And further, of our more ample grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said governor and company of the English colony of Connecticut, in New-England, in America, and to every inhabitant there, and to every person and persons trading thither, and to every such person and persons as are or shall be free of the said colony, full power and authority, from time to time, and at all times hereafter, to take, ship, transport, and carry away, for and towards the plantation and defence of the said colony, such of our loving subjects and strangers as shall, or will, willingly accompany them, in and to their said colony and plantation, except such person or persons as are or shall be therein restrained by us, our heirs and successors; and also to ship and transport all, and all manner of goods, chattels, merchandizes, and other things whatsoever, that are or shall be useful or necessary for the inhabitants of the said colony, and may lawfully be transported thither; nevertheless not to be discharged of payment to us, our heirs and successors, of the duties, customs and subsidies, which are or ought to be paid or payable for the same. And further, our will and pleasure is, and we do, for us, our heirs and successors, ordain, declare, and grant unto the said governor and company, and their successors, that all and every the subjects of us, our heirs or successors, which shall go to inhabit within the said colony, and every of their children which shall happen to be born there, or on the sea, in going thither, or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects within any of the dominions of us, our heirs or successors, to all intents, constructions and purposes whatsoever, as if they, and every of them, were born within the realm of England. And we do authorize and empower the governor or in his absence the deputy governor for the time being, to appoint two or more of the said assistants, at any of their courts or assemblies to be held as aforesaid, to have power and authority to administer the oath of supremacy and obedience to all and every person and persons, which shall at any time or times hereafter go or pass into the said colony of Connecticut; unto which said assistants so to be appointed as aforesaid, we do by these presents give full power and authority to administer the said oath accordingly. And we further, of our especial grace, certain knowledge, and mere motion, give and grant unto the said governor and company of the English colony of Connecticut in New-England in America, and their successors, that it shall and

Liberty of carrying over the King's subjects, with their own free consent, and of carrying goods and merchandize from England to Connecticut.

General denization of the inhabitants of Connecticut

Oaths of allegiance and supremacy.

Power to erect courts of justice for determining civil suits.

And to make laws, and ordinances not contrary to the laws of England.

Reference to other corporations within the kingdom of England.

The said laws shall be published in writing under their common seal.

may be lawful to and for the governor, or deputy governor, and such of the assistants of the said company for the time being, as shall be assembled in any of the general courts aforesaid, or in any courts to be especially summoned or assembled for that purpose, or the greater part of them, whereof the governor, or deputy governor, and six of the assistants, to be always seven, to erect and make such judicatories for the hearing and determining of all actions, causes, matters and things happening within the said colony or plantation, and which shall be in dispute and depending there, as they shall think fit and convenient; *and also, from time to time, to make, ordain and establish all manner of wholesome and reasonable laws, statutes, ordinances, directions, and instructions, not contrary to the laws of this realm of England;* as well for settling the forms and ceremonies of government and magistracy, fit and necessary for the said plantation, and the inhabitants there, as for naming and styling all sorts of officers, both superior and inferior, which they shall find needful for the government and plantation of the said colony, and the distinguishing and setting forth of the several duties, powers and limits of every such office and place, and the forms of such oaths, not being contrary to the laws and statutes of this our realm of England, to be administered for the execution of the said several offices and places; as also for the disposing and ordering of the election of such of the said officers as are to be annually chosen, and of such others as shall succeed, in case of death or removal, and administering the said oath to the new-elected officers, and granting necessary commissions, and for imposition of lawful fines, mulcts, imprisonments, or other punishments, upon offenders and delinquents, according to the course of other corporations within this our kingdom of England; and the same laws, fines, mulcts and executions, to alter, change, revoke, annul, release or pardon, under their common seal, as by the said general assembly, or the major part of them, shall be thought fit; *and for the directing, ruling, and disposing of all other matters and things, whereby our said people, inhabitants there, may be so religiously, peaceably and civilly governed, as their good life, and orderly conversation, may win and invite the natives of the country to the knowledge and obedience of the only true God and Saviour of mankind, and the Christian Faith; which in our royal intentions, and the adventurers free profession is the only and principal end of this plantation;* willing, commanding and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes and ordinances, instructions, impositions and directions, as shall be so made by the governor, deputy governor and assistants, as aforesaid, and published in writing under their common seal, shall carefully and duly be observed, kept, performed, and put in execution, according to the true intent, and meaning of the same; and these our letters patents, or the duplicate or exemplification thereof, shall be, to all and every such officers, superiors and inferiors, from time to time, for the putting of the same orders, laws, statutes, ordinances, instructions and directions, in due execution, against us, our heirs and successors a sufficient

warrant and discharge. And we do further, for us, our heirs and successors, give and grant unto the said governor and company, and their successors, by these presents, that it shall and may be lawful to and for the chief commanders, governors and officers of the said company for the time being, who shall be resident in the parts of New-England hereafter mentioned, and others inhabiting there, by their leave, admittance, appointment or direction, from time to time, and all times hereafter, for their special defence and safety, to assemble, marshal, array, and put in warlike posture, the inhabitants of the said colony, and to commissionate, empower and authorize such person or persons as they shall think fit, to lead and conduct the said inhabitants, and to encounter, expulse, repel, and resist by force of arms, as well by sea as by land, and also to kill, slay and destroy, by all fitting ways, enterprizes and means whatsoever, all and every such person or persons as shall, at any time hereafter attempt or enterprize the destruction, invasion, detriment, or annoyance of the said inhabitants and plantation, and to use and exercise the law martial in such cases only as occasion shall require, and to take or surprize, by all ways and means whatsoever, all and every such person or persons, with their ships, armour, ammunition, and other goods, of such as shall, in such hostile manner, invade or attempt the defeating of the said plantation, or the hurt of the said company and inhabitants, and, upon just causes, to invade and destroy the natives or other enemies of the said colony. Nevertheless our will and pleasure is, and we do hereby declare unto all christian kings, princes, and states, that if any persons, which shall hereafter be of the said company, or plantation, or any other, by appointment of the said governor and company, for the time being, shall at any time or times hereafter rob or spoil, by sea or by land, and do any hurt, violence, or unlawful hostility, to any of the subjects of us, our heirs or successors, or any of the subjects of any prince or state, being then in league with us, our heirs or successors, upon complaint of such injury done to any such prince or state, or their subjects, we, our heirs and successors, will make open proclamation within any parts of our realm of England, fit for that purpose, that the person or persons committing any such robbery or spoil shall, within the time limited by such proclamation, make full restitution or satisfaction of all such injuries done or committed; so as the said prince or others so complaining may be fully satisfied and contented: And if the said person or persons, who shall commit any such robbery or spoil, shall not make satisfaction accordingly, within such time so to be limited, that then it shall and may be lawful for us, our heirs and successors, to put such person or persons out of our allegiance and protection; and that it shall and may be lawful and free for all princes and others to prosecute with hostilities such offenders, and every of them, their and every of their procurers, aiders, abettors, and counsellors in that behalf. Provided also, and our express will and pleasure is, and we do, by these presents, for us, our heirs and successors, ordain and appoint, that these presents shall not, in any manner, hinder any of our loving subjects whatsoever to use and exercise the

The gov. of said company shall have power to assemble and array the inhabitants of the colony, and conduct them to war against any enemies that shall invade them;

and likewise upon just causes to invade and destroy their enemies.

Provido, in case they shall rob or injure any prince or state, in amity with England.

Reservation to the King's subjects residing in other

parts of his dominions of a liberty of fishing and drying their fish within the said colony. trade of fishing, upon the coast of New-England in America ; but they, and every or any of them, shall have full and free power and liberty to continue and use the said trade of fishing upon the said coast, in any of the seas thereunto adjoining, or any arms of the seas, or salt-water rivers, where they have been accustomed to fish; and to build and set upon the waste lands belonging to the said colony of Connecticut, such wharfs, stages, and work-houses, as shall be necessary for the salting, drying, and keeping of their fish, to be taken or gotten upon that coast; any thing in these presents contained to the contrary notwithstanding. And know

Grant of the soil of the colony to the said gov. and company.

ye further, that we, of our more abundant grace, certain knowledge, and mere motion, have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said governor and company, and their successors, all that part of our dominions in New-England in America, bounded on the East by the Narragancett River, commonly called Narragancett Bay, where the said river falleth into the sea, and on the North by the line of the Massachusetts plantation, and on the South by the sea, and in longitude, as the line of the Massachusetts colony running from East to West, (that is to say) from the said Narragancett Bay, on the East, to the South Sea, on the West part, with the islands thereunto adjoining, together with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines, minerals, precious stones, quarries, and all and singular commodities, jurisdictions, royalties, privileges, franchises, pre-eminencies, and hereditaments whatsoever, within the said tract, bounds, lands, and islands aforesaid, or to them, or any of them

Habendum.

belonging. To have and to hold the same, unto the said governor and company, their successor, and assigns, for ever, upon trust, and for the use and benefit of themselves, and their associates,

Tenendum.

freemen of the said colony, their heirs and assigns ; to be holden of us, our heirs and successors, as of our manor of East Greenwich, in free and common soccage, and not *in capite*, nor by

Reddendum

knights service ; Yielding and paying therefore to us, our heirs and successors, only the fifth part of all the ore of gold and silver, which from time to time and all times hereafter, shall be there gotten, had or obtained, in lieu of all services, duties and demands whatsoever, to be to us, our heirs or successors, therefore or thereout rendered, made, or paid. And lastly, we do for us, our heirs and successors, grant to the said governor and company, and their successors, by these presents, that these our letters patents shall be firm, good, and effectual in the law, to all intents, constructions and purposes whatsoever, according to our true intent and meaning herein before declared, as shall be construed, reputed, and adjudged most favourable on the behalf, and for the best benefit and behoof of the said governor and company, and their successors, although express mention, &c. In witness, &c. Witness the King, at Westminster, the three and twentieth day of April,

Per Breve de Privato Sigillo.

RHODE ISLAND.

RHODE ISLAND was colonized by Dissenters from Massachusetts, chiefly under the direction of one Roger Williams. In the year 1643 he made a journey to England, and, by the interest of Sir Henry Vane, obtained and brought back to his fellow-colonists a Parliamentary Charter, by which Providence and Rhode Island were politically united till the Restoration. As soon, however, as the Restoration was proclaimed, John Clarke was despatched to England, as deputy from the colonists, in order to carry their dutiful respects to the foot of the throne, and to solicit a new Charter in their favour. Clarke was not over-scrupulous as to the means, though his zeal proves how highly he valued the object. He succeeded ultimately in gratifying his desire and that of his compatriots, to the fullest extent. In fact, says Grahame, this was the first creation, by a British patent, of an authority of that peculiar description which was then established in Rhode Island. 'Corporations had been formerly constituted within the realm for the government of Colonial plantations: but now a body politic was created, with specific powers for administering all the affairs of a Colony within the Colonial territory.' The Charter, which is dated 1662, was an improvement on that of Massachusetts, inasmuch as it provided a representation of the freemen, which, in the other case, was a supplemental arrangement; and especially because it dispensed with the necessity of making the transfer, which, in that case, was effected without provision for its legal validity.

In the general attack upon the Charters by the Crown, in the years 1685 and '6, that of Rhode Island, though nominally surrendered, was not, in fact, legally extinguished: and this benefit, which a similar improvidence afforded to the people of Connecticut, was ascertained at the era of the English Revolution.

Rhode Island Charter, granted by KING CHARLES II., in the Fourteenth Year of his Reign.

CHARLES the Second, by the grace of God, &c. To all to whom these presents shall come, greeting. Whereas we have been informed by the humble petition of our trusty and well beloved subjects, John Clarke, on the behalf of Benjamin Arnold, William Brenton, William Codrington, Nicholas Easton, William Boulston, John Porter, John Smith, Samuel Gorton, John Weekes, Roger Williams, Thomas Olney, Gregory Dexter, John Cogeshall, Joseph Clarke, Randall Houlden, John Greene, John Roome, Samuel Wildbore, William Field, James Barker, Richard

Tew, Thomas Harris, and William Dyre, and the rest of the purchasers, and free inhabitants of our island called Rhode Island, and the rest of the colony of Providence Plantations, in the Narraganset Bay, in New England in America, That they, pursuing with peace and loyal minds, their sober, serious, and religious intentions, of godly edifying themselves, and one another, in the holy Christian faith and worship as they were persuaded, together with the gaining over and conversion of the poor ignorant Indian natives, in those parts of America, to the sincere profession and obedience of the same faith and worship, did not only by the consent and good encouragement of our royal progenitors, transport themselves out of this kingdom of England into America; but also since their arrival there, after their first settlement amongst other our subjects in those parts, for the avoiding of discord, and those many evils which were likely to ensue upon those our subjects, not being able to bear in those remote parts their different apprehensions in religious concernments; and in pursuance of the aforesaid ends, did once again leave their desirable stations and habitations, and with excessive labour and travel, hazard, and charge, did transplant themselves into the midst of the Indian natives, who, as we are informed, are the most potent princes and people of all that country; whereby the good providence of God (from whom the plantations have taken their name) upon their labour and industry, they have not only been preserved to admiration, but have increased and prospered, and are seized and possessed, by purchase and consent of the said natives, to their full content, of such lands, islands, rivers, harbours, and roads, as are very convenient both for plantations, and also for building of ships, supply of pipe-staves, and other merchandize, and which lies very commodious in many respects for commerce, and to accommodate our southern plantations, and may much advance the trade of this our realm, and greatly enlarge the territories thereof; they having by near neighbourhood to, and friendly society with, the great body of the Narraganset Indians, given them encouragement, of their own accord, to subject themselves, their people and lands, unto us; whereby (as is hoped) there may, in time, by the blessing of God upon their endeavours, be laid a sure foundation of happiness to all America. And whereas, in their humble address, they have freely declared, That it is much on their hearts (if they be permitted) to hold forth a lively experiment, that a most flourishing civil state may stand, and best be maintained, and that among our English subjects, with a full liberty in religious concernments, and that true piety, rightly grounded upon gospel principles, will give the best and greatest security to sovereignty, and will lay in the hearts of men the strongest obligations to true loyalty: now know ye, That we being willing to encourage the hopeful undertaking of our said loyal and loving subjects, and to secure them in the free exercise and enjoyment of all their civil and religious rights appertaining to them as our loving subjects; and to preserve unto them that liberty in the true Christian faith and worship of God, which they have sought with so much travel, and with peaceable minds and loyal subjec-

tion to our royal progenitors, and ourselves, to enjoy: and because some of the people and inhabitants of the same colony cannot, in their private opinion, conform to the public exercise of religion, according to the liturgy, form, and ceremonies of the church of England, or take or subscribe the oaths and articles made and established in that behalf; and for that the same, by reason of the remote distances of those places, will, as we hope, be no breach of the unity and uniformity established in this nation, have therefore thought fit, and do hereby publish, grant, ordain, and declare, that our royal will and pleasure is, That no person within the said colony, at any time hereafter, shall be any-wise molested, punished, disquieted, or called in question, for any differences in opinion in matters of religion, and do not actually disturb the civil peace of our said colony; but that all and every person and persons may, from time to time, and at all times hereafter, freely and fully have and enjoy his and their own judgments and consciences, in matters of religious concerns, throughout the tract of land hereafter mentioned, they behaving themselves peaceably and quietly, and not using this liberty to licentiousness and profaneness, nor to the civil injury or outward disturbance of others, any law, statute, or clause therein contained, or to be contained, usage or custom of this realm, to the contrary hereof, in any wise notwithstanding. And that they may be in the better capacity to defend themselves in their just rights and liberties against all the enemies of the Christian faith, and others, in all respects, we have further thought fit, and at the humble petition of the persons aforesaid, are graciously pleased to declare, That they shall have and enjoy the benefit of our late act of indemnity, and free pardon, as the rest of our subjects in other our dominions and territories have; and to create and make them a body politic or corporate, with the powers or privileges hereinafter mentioned: and accordingly, our will and pleasure is, and of our especial grace, certain knowledge, and mere motion, we have ordained, constituted, and declared, and by these presents, for us, our heirs, and successors, do ordain, constitute, and declare, That they the said William Brenton, William Coddington, Nicholas Easton, Benedict Arnold, William Boulston, John Porter, Samuel Gorton, John Smith, John Weekes, Roger Williams, Thomas Olney, Gregory Dexter, John Cogeshall, Joseph Clarke, Randall Houlden, John Greene, John Roome, William Dyre, Samuel Wildbore, Richard Tew, William Field, Thomas Harris, James Barker, Rainsborrow,

Grant to the inhabitants of this colony of the free exercise of their religion.

They shall enjoy the benefit of the act of indemnity. Incorporation of divers persons in the Providence Plantations.

Williams, and John Nickson, and all such others as are now, or hereafter shall be admitted, free of the company and society of our colony of Providence Plantations, in the Narraganset Bay, in New England, shall be, from time to time, and for ever hereafter, a body corporate and politic, in fact and name, by the name of the Governor and Company of the English Colony of Rhode Island, and Providence Plantations, in New England, in America; and that by the same name they and their successors shall and may have perpetual succession, and shall and may be persons able and capable in the law to sue and be sued, to plead and be impleaded, to answer and to be answered unto, to defend

Name of the corporation.

Common
Seal.

Govern-
ment.

Appoint-
ment of the
first govern-
or, deputy
governor,
and assist-
ants.

The govern-
nor may as-
semble the
said compa-
ny as often
as he thinks
proper, &c.

and to be defended, in all and singular suits, causes, quarrels, matters, actions, and things, of what kind or nature soever; and also to have, take, possess, acquire, and purchase lands, tenements, or hereditaments, or any goods or chattels, and the same to lease, grant, demise, alien, bargain, sell and dispose of, at their own will and pleasure, as other our liege people of this our realm of England, or any corporation or body politic within the same, may lawfully do; and further, That they the said Governor and Company, and their successors, shall and may, for ever hereafter, have a common seal, to serve and use for all matters, causes, things, and affairs whatsoever, of them and their successors, and the same seal to alter, change, break, and make new from time to time, at their will and pleasure, as they shall think fit. And further, we will and ordain, and by these presents, for us, our heirs, and successors, do declare and appoint, That for the better ordering and managing of the affairs and business of the said company and their successors, there shall be one governor, one deputy governor, and ten assistants, to be from time to time constituted, elected, and chosen, out of the freemen of the said company, for the time being, in such manner and form as is hereafter in these presents expressed; which said officers shall apply themselves to take care for the best disposing and ordering of the general business and affairs of and concerning the lands and hereditaments herein aftermentioned to be granted, and the plantation thereof, and the government of the people there. And for the better execution of our royal pleasure herein, we do for us, our heirs, and successors, assign, name, constitute, and appoint, the aforesaid Benedict Arnold to be the first and present governor of the said company, and the said William Brenton to be the deputy governor, and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Cogeshall, James Barker, William Field, and Joseph Clarke, to be the ten present assistants of the said company, to continue in the said several offices respectively, until the first Wednesday which shall be in the month of May now next coming. And further, we will, and by these presents, for us, our heirs, and successors, do ordain and grant, That the governor of the said company, for the time being, or in his absence, by occasion of sickness, or otherwise, by his leave or permission, the deputy governor, for the time being, shall and may, from time to time, upon all occasions, give order for the assembling of the said company, and calling them together, to consult and advise of the business and affairs of the said company; and that for ever hereafter, twice in every year, that is to say, on every first Wednesday in the month of May, and on every last Wednesday in October, or oftener, in case it shall be requisite, the assistants, and such of the freemen of the said company, not exceeding six persons, for Newport, four persons for each of the respective towns of Providence, Portsmouth, and Warwick, and two persons for each other place, town or city, who shall be from time to time thereunto elected or deputed by the major part of the freemen of the respective places, towns or places for which they shall be so

elected or deputed, shall have a general meeting or assembly, then and there to consult, advise and determine, in and about the affairs and business of the said company and plantations. And further, we do of our especial grace, certain knowledge, and mere motion, give and grant unto the said governor and company of the English colony of Rhode Island and Providence Plantations, in New England, in America, and their successors, That the governor, or in his absence, or by his permission, the deputy governor of the said company, for the time being, the assistants, and such of the freemen of the said company as shall be so aforesaid elected or deputed, or so many of them as shall be present at such meeting or assembly, as aforesaid, shall be called the general assembly; and that they, or the greatest part of them then present, whereof the governor, or deputy governor, and six of the assistants at least, to be seven, shall have, and have hereby given and granted unto them, full power and authority, from time to time, and at all times hereafter, to appoint, alter, and change such days, times and places of meeting, and general assembly, as they shall think fit, and to chuse, nominate and appoint such and so many persons as they shall think fit, and shall be willing to accept the same, to be free of the said company and body politic and them into the same to admit, and to elect, and constitute such offices and officers, and to grant such needful commissions as they shall think fit and requisite, for ordering, managing, and dispatching of the affairs of the said governor and company, and their successors; and, *from time to time, to make, ordain, constitute or repeal, such laws, statutes, orders and ordinances, forms and ceremonies of government and magistracy, as to them shall seem meet, for the good and welfare of the said company, and for the government and ordering of the lands and hereditaments herein after mentioned to be granted, and of the people that do, or at any time hereafter shall inhabit, or be within the same; so as such laws, ordinances, and constitutions, so made, be not contrary and repugnant unto, but, as near as may, agreeable to the laws of this our realm of England considering the nature and constitution of the place and people there; and also to appoint, order and direct, erect and settle such places and courts of jurisdiction, for hearing and determining of all actions, cases, matters and things, happening within the said colony and plantation, and which shall be in dispute, and depending there, as they shall think fit; and also to distinguish and set forth the several names and titles, duties, powers and limits, of each court, office and officer, superior and inferior; and also, to contrive and appoint such forms of oaths and attestations, not repugnant, but as near as may be agreeable as aforesaid to the laws and statutes of this our realm, as are convenient and requisite, with respect to the due administration of justice, and due execution and discharge of all offices and places of trust, by the persons that shall be therein concerned; and also to regulate and order the way and manner of all elections to offices and places of trust, and to prescribe, limit and distinguish the number and bounds of all places, towns and cities, with the limits and bounds herein after mentioned, and not herein particularly named, who have or shall*

Power of the
general assembly.

have the power of electing and sending of freemen to the said general assembly; and also to order, direct and authorise, the imposing of lawful and reasonable fines, mulcts, imprisonments, and executing other punishments, pecuniary and corporal, upon offenders and delinquents, according to the course of other corporations, within this our kingdom of England; and again, to alter, revoke, annul or pardon, under their common seal, or otherwise, such fines, mulcts, imprisonments, sentences, judgments and condemnations, as shall be thought fit; and to direct, rule, order and dispose of all other matters and things, and particularly that which relates to the making of purchases of the native Indians, as to them shall seem meet; whereby our said people and inhabitants in the said plantations, may be so religiously, peaceably and civilly governed, as that by their good life, and orderly conversation, they may win and invite the native Indians of the country to the knowledge and obedience of the only true God and Saviour of mankind; willing, commanding and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such laws, statutes, orders and ordinances, instructions, impositions and directions, as shall be so made by the governor, deputy, assistants and freemen, or such number of them as aforesaid, and published in writing under their common seal, shall be carefully and duly observed, kept, performed and put in execution, according to the true intent and meaning of the same. And these our letters patents, or the duplicate or exemplification thereof, shall be to all and every such officers, superior or inferior, from time to time, for the putting of the same orders, laws, statutes, ordinances, instructions and directions, in due execution against us, our heirs and successors, a sufficient warrant and discharge. And further, our will and pleasure is, and we do hereby for us, our heirs and successors, establish and ordain, That yearly, once in the year for ever hereafter, namely, the aforesaid Wednesday in May, and at the town of Newport, or elsewhere if urgent occasion do require, the governor, deputy-governor, and assistants of the said company, and other officers of the said company, or such of them as the general assembly shall think fit, shall be in the said general court or assembly, to be held from that day or time, newly chosen for the year ensuing, by greater part of the said company for the time being, as shall be then and there present. And if it shall happen that the present governor, deputy-governor, and assistants, by these presents appointed, or any such as shall hereafter be newly chosen into their rooms, or any of them, or any other the officers of the said company, shall die, or be removed from his or their several offices or places, before the said general day of election, (whom we do hereby declare for any misdemeanor or default, to be removeable by the governor, assistants and company, or such greater part of them, in any of the said public courts to be assembled, as aforesaid) that then, and in every such case, it shall and may be lawful to and for the said governor, deputy-governor, assistants and company aforesaid, or such greater part of them so to be assembled, as is aforesaid, in

There shall be an annual election of the governor, &c., by the general assembly in the month of May.

Accidental vacancies by death or removal may be filled up by the general assembly.

Power to remove the governor, or any other officer, for any misdemeanor.

any of their assemblies, to proceed to a new election of one or more of their company, in the room or place, rooms or places, of such officer or officers so dying or removed, according to their directions. And immediately upon and after such election or elections made of such governor, deputy-governor, assistant or assistants, or any other officer of the said company, in manner and form aforesaid, the authority, office and power, before given to the former governor, deputy-governor, and other officer and officers so removed, in whose stead and place new shall be chosen, shall, as to him and them, and every of them respectively, cease and determine: provided always, and our will and pleasure is, That as well such as are by these presents appointed to be the present governor, deputy-governor, and assistants of the said company, as those which shall succeed them, and all other officers to be appointed and chosen as aforesaid, shall, before the undertaking the execution of the said offices and places respectively, give their solemn engagement by oath or otherwise, for the due and faithful performance of their duties in their several offices and places, before such person or persons as are by these presents hereafter appointed to take and receive the same; (that is to say) the said Benedict Arnold, who is herein before nominated and appointed the present governor of the said company, shall give the aforesaid engagement before William Brenton, or any two of the said assistants of the said company, unto whom we do, by these presents, give full power and authority to require and receive the same; and the said William Brenton, who is hereby before nominated and appointed the present deputy governor of the said company, shall give the aforesaid engagement before the said Benedict Arnold, or any two of the assistants of the said company, unto whom we do, by these presents, give full power and authority to require and receive the same; and the said William Boulston, John Porter, Roger Williams, Thomas Olney, John Smith, John Greene, John Coggeshall, James Barker, William Field, and Joseph Clarke, who are herein before nominated and appointed the present assistants of the company, shall give the said engagement to their offices and places respectively belonging, before the said Benedict Arnold and William Brenton, or one of them, to whom respectively we do hereby give full power and authority to require, administer or receive the same. And further, our will and pleasure is, that all and every other future governor, or deputy governor, to be elected and chosen by virtue of these presents, shall give the said engagement before two or more of the said assistants of the said company for the time being, unto whom we do, by these presents, give full power and authority to require, administer or receive the same; and the said assistants, and every of them, and all and every other officer or officers, to be hereafter elected and chosen by virtue of these presents, from time to time, shall give the like engagements to their offices and places respectively belonging, before the governor, or deputy governor, for the time being; unto which said governor, or deputy governor, we do by these presents give full power and authority to require, administer, or

The gov., deputy gov., &c., shall take solemn engagements to do the duties of their respective offices.

Manner in which future governors and other officers of the company shall give these engagements.

The governor, &c., may govern the colony according to the laws that have already been in use there (not being contrary to the laws of Eng.) until they are changed in some general assembly.

Power of arming the people, and leading them out to war against any enemies that shall invade the colony;

and upon just causes to invade them. But they may not invade the native Indians inhabiting other colonies without consent of said colonies

receive the same accordingly. And we do likewise, for us, our heirs and successors, give and grant unto the said governor and company, and their successors, by these presents, that for the more peaceable and orderly government of the said plantations, it shall and may be lawful for the governor, deputy governor, assistants, and all other officers and ministers, of the said company, in the administration of justice, and exercise of government, in the said plantations, to use, exercise, and put in execution, such methods, rules, orders, and directions, not being contrary and repugnant to the laws and statutes of this our realm, as has been heretofore given, used, and accustomed in such cases respectively, to be put in practice, until, at the next or some other general assembly, especial provision shall be made and ordained in the cases aforesaid. And we do further, for us, our heirs and successors, give and grant unto the said governor and company, and their successors, by these presents, that it shall and may be lawful to and for the said governor, or in his absence the deputy governor, and major part of the said assistants for the time being, at any time, when the said general assembly is not sitting, to nominate, appoint and constitute such and so many commanders, governors, and military officers, as to them shall seem requisite, for the leading, conducting, and training up the inhabitants of the said plantations in martial affairs, and for the defence and safeguard of the said plantations; and that it shall and may be lawful to and for all and every such commander, governor, and military officer, that shall be so as aforesaid, or by the governor, or in his absence the deputy-governor, and six of the assistants, and major part of the freemen of the said company, present at any general assemblies, nominated, appointed and constituted, according to the tenor of his and their respective commissions and directions, to assemble, exercise in arms, marshal, array, and put in warlike posture, the inhabitants of the said colony, for their especial defence and safety; and to lead and conduct the said inhabitants, and to encounter, repulse, and resist by force of arms, as well by sea as by land, and also to kill, slay, and destroy, by all fitting ways, enterprizes, and means whatsoever, all and every such person or persons, as shall at any time hereafter attempt or enterprize the destruction, invasion, detriment, or annoyance of the said inhabitants or plantations; and to use and exercise the law martial, in such cases only as occasion shall necessarily require; and to take and surprize, by all ways and means whatsoever, all and every such person and persons, with their ship or ships, armour, ammunition, or other goods of such persons as shall in hostile manner invade or attempt the defeating of the said plantation, or the hurt of the said company and inhabitants; and upon just causes to invade and destroy the natives, Indians, or other enemies of the said colony. Nevertheless, our will and pleasure is, and we do hereby declare, to the rest of our colonies in New-England, that it shall not be lawful for this our said colony of Rhode-Island and Providence plantations in America, in New-England, to invade the natives inhabiting within the bounds and limits of their said colonies, without the

knowledge and consent of the said other colonies. And it is hereby declared, that it shall not be lawful to or for the rest of the colonies to invade or molest the native Indians, or any other inhabitants inhabiting within the bounds or limits hereafter mentioned, (they having subjected themselves unto us, and being by us taken into our special protection,) without the knowledge and consent of the governor and company of our colony of Rhode-Island and Providence plantation. Also our will and pleasure is, and we do hereby declare unto all Christian Kings, Princes and States, that if any person, which shall hereafter be of the said company or plantation, or any other by appointment of the said governor and company, for the time being, shall at any time or times hereafter rob or spoil, by sea or land, or do any hurt, or unlawful hostility, to any of the subjects of us, our heirs and successors, or any of the subjects of any Prince or State, being then in league with us, our heirs and successors; upon complaint of such injury done to any such Prince or State, or their subjects, we, our heirs and successors, will make open proclamation, within any parts of our realm of England, fit for that purpose, that the person or persons committing any such robbery or spoil, shall, within the time limited by such proclamation, make full restitution or satisfaction of all such injuries done or committed, so as the said Prince, or others so complaining, may be fully satisfied and contented; and if the said person or persons, who shall commit any such robbery or spoil, shall not make satisfaction accordingly within such time so to be limited, that then we, our heirs and successors, will put such person or persons out of our allegiance and protection; and that then it shall and may be lawful and free for all Princes or others, to prosecute with hostility such offenders, and every of them, their and every of their procurers, aiders, abettors and counsellors, in that behalf. Provided also, and our express will and pleasure is, and we do by these presents, for us, our heirs and successors, ordain and appoint, that these presents shall not in any manner hinder any of our loving subjects whatsoever, from using and exercising the trade of fishing upon the coast of New-England in America, but that they, and every or any of them, shall have full and free power and liberty to continue and use the trade of fishing upon the said coast, in any of the seas thereunto adjoining, or any arms of the sea, or salt-water, rivers and creeks, where they have been accustomed to fish, and to build and set upon the waste land belonging to the said colony and plantations, such wharfs, stages, and work-houses as shall be necessary for the salting, drying and keeping of their fish, to be taken or gotten upon that coast. And further, for the encouragement of the inhabitants of our said colony of Providence plantation, to set upon the business of taking whales, it shall be lawful for them, or any of them, having struck a whale, dubertus, or other great fish, it or them to pursue unto that coast, and into any bay, river, cove, creek or shore, belonging thereto, and it or them, upon the said coast, or in the said bay, river, cove, creek or shore, belonging thereto, to kill and order for the best advantage without molestation, they making

And the other colonies shall be under the same restriction with respect to the Indians that inhabit Rhode-Is.

Provision is made any of the inhabitants of this colony of Rhode-Is. shall rob or injure the subjects of any state in amity with England.

Reservation to the king's other subjects of the liberty of fishing and drying their fish within this colony.

Whales.

Vineyards.

Liberty to carry over to this colony any of the king's subjects who shall be willing to go thither;

and likewise to carry over goods and merchandize from England.

General denization of all the inhabitants of this colony.

Grant of the soil of the colony to the said governor & company.

no wilful waste or spoil; any thing in these presents contained, or any other matter or thing to the contrary notwithstanding. And further also, we are graciously pleased, and do hereby declare, that if any of the inhabitants of our said colony do set upon the planting of vineyards, (the soil and climate both seeming naturally to concur to the production of wines,) or be industrious in the discovery of fishing-banks, in or about the said colony, we will, from time to time, give and allow all due and fitting encouragement therein, as to others in cases of like nature. And further of our more ample grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said governor and company of the English colony of Rhode-Island and Providence plantation in the Narragansett bay in New-England, in America, and to every inhabitant there, and to every person and persons trading thither, and to every such person or persons as are or shall be free of the said colony, full power and authority, from time to time, and at all times hereafter, to take, ship, transport, and carry away, out of any of our realms and dominions, for and towards the plantation and defence of the said colony, such and so many of our loving subjects and strangers, as shall or will willingly accompany them in and to their said colony and plantation, except such person or persons as are or shall be therein restrained by us, our heirs and successors, or any law or statute of this realm; and also to ship and transport all and all manner of goods, chattels, merchandize, and other things whatsoever, that are or shall be useful or necessary for the said plantations, and defence thereof, and usually transported, and not prohibited by any law or statute of this our realm; yielding and paying unto us, our heirs and successors, such the duties, customs, and subsidies, as are or ought to be paid or payable for the same. And further, our will and pleasure is, and we do, for us, our heirs and successors, ordain, declare and grant, unto the said governor and company, and their successors, that all and every the subjects of us, our heirs and successors, which are already planted and settled within our said colony of Providence plantations, or which shall hereafter go to inhabit within the said colony, and all and every of their children which have been born there, or which shall happen hereafter to be born there, or on the sea going thither or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects, within any the dominions of us, our heirs or successors, to all intents, constructions and purposes whatsoever, as if they and every of them were born within the realm of England. And further know ye, that we, of our more abundant grace, certain knowledge, and mere motion, have given, granted and confirmed, and by these presents, for us, our heirs and successors, do give, grant and confirm, unto the said governor and company, and their successors, all that part of our dominions, in New-England in America, containing the Nahantick and Nanhygansett alias Narragansett bay and countries and parts adjacent, bounded on the west, or westerly, to the middle or channel of a

river there, commonly called and known by the name of Pawcatuck alias Pawcawtuck river, and so along the said river, as the greater or middle stream thereof reacheth or lies up into the north country, northward unto the head thereof, and from thence by a strait line drawn due north, until it meet with the south line of the Massachusetts colony, and on the north or northerly by the aforesaid south or southerly line of the Massachusetts colony or plantation, and extending towards the east or eastwardly three English miles, to the east and north-east of the most eastern and north-eastern parts of the aforesaid Narragansett bay, as the said bay lieth or extendeth itself from the ocean on the south or southwardly, unto the mouth of the river which runneth towards the town of Providence, and from thence along the eastwardly side or bank of the said river (higher called by the name of Seacunk river) up to the falls called Patucket falls, being the most westwardly line of Plymouth colony; and so from the said falls, in a strait line due north, until it meet with the aforesaid line of the Massachusetts colony, and bounded on the south by the ocean, and in particular the lands belonging to the town of Providence, Patuxit, Warwicke, Misquammacock alias Pawcatuck, and the rest upon the main land, in the tract aforesaid, together with Rhode-Island, Blocke-Island, and all the rest of the islands and banks in the Narragansett bay, and bordering upon the coast of the tract aforesaid, (Fisher's-Island only excepted) together with all firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines royal, and all other mines, minerals, precious stones, quarries, woods, wood-grounds, rocks, slates, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, pre-eminences and hereditaments whatsoever, within the said tract, bounds, lands and islands aforesaid, to them or any of them belonging, or in any-wise appertaining. To have and to hold the same, unto the said governor and company, and their successors for ever, upon trust, for the use and benefit of themselves, and their associates, freemen of the said colony, their heirs and assigns. To be holden of us, our heirs and successors as of *Habendum.* the manor of East-Greenwich, in our county of Kent, in free and common soccage, and not in capite, nor by Knight's service. Yielding and paying therefore to us, our heirs and successors, only the fifth part of all the ore of gold and silver, which from time to time, and at all times hereafter, shall be there gotten, had or obtained, in lieu and satisfaction of all services, duties, fines, forfeitures made or to be made, claims and demands whatsoever, to be to us, our heirs or successors, therefore or thereout rendered, made or paid; any grant or clause, in a late grant to the governor and company of Connecticut colony in America, to the contrary thereof in any wise notwithstanding; the aforesaid Pawcatuck river having been yielded after much debate, for the fixed and certain bounds between these our said colonies, by the agents thereof, who have also agreed, that the said Pawcatuck river shall be also called alias Narragansett or Narragansett river, and to prevent future disputes that otherwise might arise thereby, for ever hereafter, shall be construed, deemed and taken

Appeals to
the king.

Liberty to
pass and re-
pass thro'
the other
English co-
lonies.

to be the Narragansett river, in our late grant to Connecticut colony, mentioned as the easterly bounds of that colony. And further, our will and pleasure is, that in all matters of public controversies, which may fall out between our colony of Providence plantation, to make their appeal therein to us, our heirs and successors, for redress in such cases, within this our realm of England; and that it shall be lawful to and for the inhabitants of the said colony of Providence plantation, without lett or molestation, to pass and repass with freedom into and through the rest of the English colonies, upon their lawful and civil occasions, and to converse, and hold commerce, and trade with such of the inhabitants of our other English colonies as shall be willing to admit them thereunto, they behaving themselves peaceably among them; any act, clause or sentence, in any of the said colonies provided, or that shall be provided, to the contrary in any wise notwithstanding. And lastly, we do for us, our heirs and successors, ordain and grant unto the said governor and company, and their successors, by these presents, that these our letters patents shall be firm, good, effectual and available, in all things in the law, to all intents, constructions and purposes whatsoever, according to our true intent and meaning herein before declared; and shall be construed, reputed and adjudged, in all cases, most favourably on the behalf, and for the best benefit and behoof of the said governor and company, and their successors, although express mention, &c. In witness, &c. witness, &c.

Per Ipsum Regem.

MASSACHUSETTS SECOND CHARTER.

In the year 1661, the people of Massachusetts were under great apprehensions from intelligence which reached them of intended encroachments on their Charter by the Crown. Thereupon they held a general court, at which they appointed a committee of eight of the most eminent persons in the State, to prepare a report, *ascertaining the extent of their rights and the limits of their obedience.* The resolutions which were framed in accordance therewith, are given in Grahame's History, (i., 309,) and are interesting, as showing in a clear light the colonists' interpretation of the Charter they possessed. Two years later, in the expectation of a visitation from England, the general court of Massachusetts appointed a day of *solemn fast and prayer* throughout its jurisdiction, in order to implore the mercy of God under their many distractions and troubles: and, deeming it a point of the highest importance that the Patent or Charter should be kept 'safe and secret,' they ordered their secretary to bring it into court, and to deliver it to four of the members, who were directed to dispose of it in such manner as they should judge most conducive to its secure preservation. In 1664, when the Commission appeared, the Court resolved 'to bear true

allegiance to his Majesty, and to *adhere to a Patent* so dearly obtained and so long enjoyed by undoubted right.' The petition to the King which they framed upon the occasion concluded as follows: 'Let our government live, *our Patent live*, our magistrates live, our laws and liberties live, our religious enjoyments live; so shall we all yet have further cause to say from our hearts, Let the King live for ever.' To the demand of the Commissioners, subsequently made, for an explicit answer to this question—Did they acknowledge the authority of his Majesty's Commission?—the Court desired to be excused from giving any other answer, than that they acknowledged the authority of his Majesty's Charter, with which they were much better acquainted. Thus, its Charter was as precious and august to Massachusetts as its Palladium was to ancient Troy, or Buddha's tooth to the natives of Ceylon,* only with this important difference, that its actual was nearer to its estimated value. In this spirit they also refused, in 1683, to be consenting parties to its abrogation, and only submitted to the decision of the King's Bench, which, on a *quo warranto*, ordered it to be cancelled.

From the date of this judgment Massachusetts was governed by a Royal Commission, until, in the year 1689, the intelligence of the English Revolution produced an insurrection at Boston, in which Andros, the Governor, was deposed, and the ancient Charter and its constitutions *de facto* resumed. At first, indeed, the people of Massachusetts considered this extemporised proceeding sufficient; but the calm consideration which succeeded the ferment during which this purpose had been roughly broached, convinced them that this attempt was impracticable, and that the restoration of a Charter so formally vacated by the existing authorities of the parent state, could proceed only from the Crown or Legislature of England. With this impression, which was unquestionably just, they sent over agents to petition the King, either to restore the old Charter bodily, or to invest them with the privileges it contained by means of a new one. But 'William and his Ministers,' says Grahame, 'though restrained from imitating the tyrannical proceedings of the former reign, were eager and determined to avail themselves of whatever acquisitions these proceedings might have gained to the royal prerogative. Thus, the former adhered inflexibly to his determination of retaining, as far as possible, every advantage, however surreptitious, that fortune had put into his hands; and at length a new Charter was framed, on principles that widely departed from the primæval constitution of the Colony, and transferred to the Crown many valuable privileges that had originally belonged to the people.'

This Charter, which we are now about to give, will be seen to bear out Grahame's description, on examination of its various provisions. After a new distribution and arrangement of territory,

* 'A charter which the enthusiasm of those days considered as sacred, because supposed to be derived from the providence of Heaven.'—CHALMERS' *Annals*, i., 139.

the appointment of the Governor, deputy Governor, Secretary, and all the Officers of the Admiralty, are reserved to the Crown. Twenty-eight Councillors are directed to be chosen by the House of Assembly, and presented to the Governor for his approbation. The Governor is empowered to convoke, adjourn, prorogue, and dissolve the Assembly at pleasure; to nominate exclusively all military officers, and (with the consent of his Council) all the Judges and other officers of the law. To the Governor is reserved a negative on the laws and acts of the General Assembly and Council; and all laws enacted by these bodies, and approved by the Governor, are appointed to be transmitted to England, for the royal approbation; and if disallowed within the space of three years, they are to become absolutely void. Liberty of conscience and divine worship, which had not been mentioned in the old Charter, is, by the present one, expressly granted to all persons except Roman Catholics.

It is not surprising, therefore, that this Charter should have been received with the greatest *discontent* by the colonists; so much so, that William thought it prudent to waive, in the outset, the exercise of his prerogative, and to grant them a Governor of their own nomination. This treatment of Massachusetts was, moreover, invidious; for Rhode Island and Connecticut had obtained greater advantages. 'A dangerous lesson,' it is well said, 'was taught to the Colonial Communities, when they were thus given to understand that it was their own vigilant dexterity and successful intrigue, or the blunders of the parent state, that they were to rely on as the safeguards of their rights.' Moreover, the power which was wrested from the colonists, and appropriated by the Crown, was found inadequate to form an efficient Royalist party in the province. On the contrary, it is averred, as a fact worth remark, that the dissensions between this country and the colonies, which afterwards terminated in the dissolution of the British Empire in America, were not a little promoted by the pernicious counsels and erroneous information transmitted to the English Ministry, by the very Governors of those provinces in which the appointment to that office was exercised by the King.

J. E. M.

The Second Charter granted to the Inhabitants of MASSACHUSETTS, by their Majesties King WILLIAM and Queen MARY. Dated, Oct. 7, 1691.

WILLIAM and Mary, by the grace of God, of England, Scotland, France, and Ireland, King and Queen, defenders of the faith, &c. To all to whom these presents shall come, greeting. Whereas his late Majesty King James the First, our royal predecessor, by his letters patents under the great seal of England, bearing date at Westminster the third day of November, in the eighteenth year of his reign, did give and grant unto the council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing of New-England, in America, and

to their successors and assigns, all that part of America lying and being in breadth from forty degrees of northerly latitude, from the equinoctial line, to the forty-eighth degree of the said northerly latitude, inclusively, and in length of and within all the breadth aforesaid, throughout all the main lands, from sea to sea, together also with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines, and minerals, as well royal mines of gold and silver, as other mines and minerals, precious stones, quarries, and all and singular other commodities, jurisdictions, royalties, privileges, franchises, and preeminences, both within the said tract of land upon the main, and also within the islands and seas adjoining. Provided always, that the said lands, islands, or any the premisses, by the said letters patents intended and meant to be granted, were not then actually possessed or inhabited by any other Christian prince or state, or within the bounds, limits, or territories of the southern colony, then before granted by the said late King James the First, to be planted by divers of his subjects in the south parts. To have and to hold, possess and enjoy, all and singular the aforesaid continent, lands, territories, islands, hereditaments, and precincts, seas, waters, fishings, with all and all manner of their commodities, royalties, liberties, preeminences, and profits, that should from thenceforth arise from thence, with all and singular their appurtenances, and every part and parcel thereof, unto the said council, and their successors and assigns, for ever, to the sole and proper use and benefit of the said council, and their successors and assigns, for ever: to be holden of his said late Majesty, King James the First, his heirs and successors, as of his manor of East-Greenwich, in the county of Kent, in free and common socage, and not *in capite*, nor by knights service. Yielding and paying therefore to the said late King, his heirs and successors, the fifth part of the ore of gold and silver, which should, from time to time, and at all times then after, happen to be found, gotten, had, and obtained, in, at, or within any of the said lands, limits, territories, or precincts, or in, or within any part or parcel thereof, for or in respect of all and all manner of duties, demands, and services whatsoever, to be done, made, or paid to the said late King James the First, his heirs and successors, (as in and by the said letters patents, amongst sundry other clauses, powers, privileges, and grants therein contained, more at large appeareth). And whereas the said council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing of New-England, in America, did, by their deed, indented under their common seal, bearing date the nineteenth day of March, in the third year of the reign of our royal grandfather King Charles the First, of ever blessed memory, give, grant, bargain, sell, infeoff, alien, and confirm to Sir Henry Roswell, Sir John Young, Knights, Thomas Southcott, John Humphreys, John Endicott, and Simon Whetcombe, their heirs and assigns, and their associates, for ever, all that part of New England, in America aforesaid, which lies and extends between a great river there, commonly called Monomack, alias Merimack, and a certain other river there, called Charles River,

being in a bottom of a certain bay there, commonly called Massachusetts, alias Mattachusetts, alias Massatusetts Bay. And also, all and singular those lands and hereditaments, whatsoever, lying within the space of three English miles, on the south part of the said Charles River, or of any and every part thereof. And also, all and singular the lands and hereditaments whatsoever, lying and being within the space of three English miles to the southward of the southernmost part of the said bay called Massachusetts, alias Mattachusetts, alias Massatusetts Bay. And also, all those lands and hereditaments whatsoever, which lie and be within the space of three English miles to the northward of the said river called Monomack, alias Merimack, or to the northward of any and every part thereof; and all lands and hereditaments whatsoever, lying within the limits aforesaid, north and south in latitude, and in breadth, and in length, and longitude, of and within all the breadth aforesaid, throughout the main lands there, from the Atlantick and Western Sea and Ocean on the east part, to the South Sea on the west part; and all lands and grounds, place and places, soils, woods, and wood-grounds, havens, ports, rivers, waters, fishings, and hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof. And also, all islands lying in America aforesaid, in the said seas, or either of them, on the western or eastern coasts or parts of the said tracts of land, by the said indenture mentioned to be given and granted, bargained, sold, enfeofed, aliened, and confirmed, or any of them. And also, all mines and minerals as well royal mines of gold and silver, as other mines and minerals whatsoever, in the said lands and premisses, or any part thereof; and all jurisdictions, rights, royalties, liberties, freedoms, immunities, privileges, franchises, preheminences, and commodities whatsoever, which they the said council, established at Plymouth, in the county of Devon, for the planting, ruling, ordering and governing of New-England, in America, then had, or might use, exercise, or enjoy, in or within the said lands and premisses, by the same indenture mentioned to be given, granted, bargained, sold, enfeofed, and confirmed, in or within any part or parcel thereof. To have and to hold the said part of New-England, in America, which lies and extends, and is abutted, as aforesaid, and every part and parcel thereof; and all the said islands, rivers, ports, havens, waters, fishings, mines, minerals, jurisdictions, franchises, royalties, liberties, privileges, commodities, hereditaments, and premisses whatsoever, with the appurtenances, unto the said Sir Henry Roswell, Sir John Young, Thomas Southcott, John Humphreys, John Endicott, and Simon Whitecombe, their heirs and assigns, and their associates for ever, to the only proper and absolute use and behoof of the said Sir Henry Roswell, Sir John Young, Thomas Southcott, John Humphreys, John Endicott, and Simon Whitecombe, their heirs and assigns, and their associates, for evermore. To be holden of our said royal grandfather, King Charles the First, his heirs and successors, as of his manor of East-Greenwich in the county of Kent, in free and common soccage, and not *in capite*, nor by knights service; yielding and

paying therefore, unto our said royal grandfather, his heirs and successors, the fifth part of the ore of gold and silver, which should, from time to time, and at all times hereafter, happen to be found, gotten, had and obtained in any of the said lands within the said limits, or in or within any part thereof, for and in satisfaction of all manner of duties, demands, and services whatsoever, to be done, made, or paid to our said royal grandfather, his heirs and successors, (as in and by the said recited indenture may more at large appear.) And whereas our said royal grandfather, in and by his letters patents, under the great seal of England, bearing date at Westminster the fourth day of March, in the fourth year of his reign, for the consideration therein mentioned, did grant and confirm unto the said Sir Henry Roswell, Sir John Young, Thomas Southcott, John Humphreys, John Endicott, and Simon Whetcombe, and to their associates after named, viz Sir Richard Saltenstall, knight, Isaac Johnson, Samuel Aldersey, John Ven, Matthew Craddock, George Harwood, Increase Knowell, Richard Perry, Richard Bellingham, Nathaniel Wright, Samuel Vassal, Theophilus Eaton, Thomas Goffe, Thomas Adams, John Brown, Samuel Brown, Thomas Hutchins, William Vassall, William Pincheon, and George Foxcroft, their heirs and assigns, all the said part of New-England, in America, lying and extending between the bounds and limits in the said indenture expressed, and all lands and grounds, place and places, soils, woods, and wood-grounds, havens, ports, rivers, waters, mines, minerals, jurisdictions, rights, royalties, liberties, freedoms, immunities, privileges, franchises, preeminences, and hereditaments whatsoever, bargained, sold, enfeoffed, and confirmed, or mentioned or intended to be given, granted, bargained, sold, enfeoffed, aliened, and confirmed to them the said Sir Henry Roswell, Sir John Young, Thomas Southcott, John Humphreys, John Endicott, and Simon Whetcombe, their heirs and assigns, and to their associates, for ever, by the said recited indenture. To have and to hold the said part of New-England, in America, and other the premises thereby mentioned to be granted and confirmed, and every part and parcel thereof, with the appurtenances, to the said Sir Henry Roswell, &c., their heirs and assigns, for ever, to their only proper and absolute use and behoof, for evermore; to be holden of our said royal grandfather, his heirs and successors, as of his manor of East-Greenwich aforesaid, in free and common soccage, and not *in capite*, nor by knights service; and also yielding and paying therefore, to our said royal grandfather, his heirs and successors, the fifth part only of all the ore of gold and silver which, from time to time, and at all times after, should be there gotten, had, or obtained, for all services, exactions, and demands whatsoever, according to the tenor and reservation in the said recited indenture expressed. And further, our said royal grandfather, by the said letters patents, did give and grant unto the said Sir Henry Roswell, &c., their heirs and assigns, all that said part of New-England, in America, which lies and extends between a great river there, commonly called Monomack, alias Merimack river, and a certain other river there, called Charles River, being in the

bottom of a certain Bay there, commonly called Massachusetts, alias Mattachusetts, alias Massatusetts Bay; and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles, on the south part of the said river, called Charles River, or of any or every part thereof. And also, all and singular the lands and hereditaments whatsoever, lying and being within the space of three English miles to the southward of the southernmost part of the said bay called Massachusetts, alias Mattachusetts, alias Massatusetts Bay. And also, all those lands and hereditaments whatsoever, which lie and be within the space of three English miles to the northward of the said river called Monomack, alias Merinack, or to the northward of any and every part thereof, and all lands and hereditaments whatsoever, lying within the limits aforesaid, north and south, in latitude, and in breadth, and in length, and longitude, of and within all the breadth aforesaid throughout the main lands there, from the Atlantic or Western Sea and Ocean on the east part to the South Sea on the west part; and all lands, grounds, place and places, soils, woods, and woodlands, havens, ports, rivers, waters, and hereditaments whatsoever, lying within the said bounds and limits, and every part and parcel thereof. And also all islands in America aforesaid, in the said seas, or either of them, on the western or eastern coasts or parts of the said tracts of lands, thereby mentioned to be given and granted, or any of them; and all mines and minerals, as well royal mines of gold and silver, as other mines and minerals whatsoever, in the said lands and premisses, or any part thereof; and free liberty of fishing in or within any of the rivers or waters within the bounds and limits aforesaid, and the seas thereunto adjoining; all fishes, royal fishes, whales, balene, sturgeon, and other fishes of what kind or nature soever, that should at any time thereafter be taken in or within the said seas or waters, or any of them, by the said Henry Roswell, &c., their heirs or assigns, or by any other person or persons whatsoever, there inhabiting, by them, or any of them, to be appointed to fish therein. Provided always, that if the said lands, islands, or any the premisses before-mentioned, and by the said letters patents last mentioned, intended and meant to be granted, were, at the time of the granting of the said former letters patents, dated the third day of November, in the eighteenth year of the reign of his late Majesty King James the First, actually possessed or inhabited by any other christian prince or state, or were within the bounds, limits, or territories of the said southern colony, then before granted by the said King, to be planted by divers of his loving subjects in the south parts of America, That then the said grant of our said royal grandfather should not extend to any such parts or parcels thereof, so formerly inhabited, or lying within the bounds of the southern plantation as aforesaid; but as to those parts or parcels, so possessed or inhabited by any such Christian prince or state, or being within the boundaries aforesaid, should be utterly void. To have and to hold, possess and enjoy, the said parts of New-England, in America, which lie, extend, and are abutted, as aforesaid, and every part

and parcel thereof; and all the islands, rivers, ports, havens, waters, fishings, fishes, mines, minerals, jurisdictions, franchises, royalties, liberties, privileges, commodities, and premisses whatsoever, with the appurtenances, unto the said Sir Henry Roswell, &c., their heirs and assigns, for ever; to the only proper and absolute use and behoof of the said Sir Henry Roswell, &c., their heirs and assigns, for evermore, to be holden of our said royal grandfather, his heirs and successors, as of his manor of East-Greenwich, in the county of Kent, within the realm of England, in free and common socage, and not *in capite*, nor by knights service; and also yielding and paying therefore, to our said royal grandfather, his heirs and successors, the fifth part only of all the ore of gold and silver, which, from time to time, and at all times hereafter, should be gotten, had, or obtained, for all services, exactions, and demands whatsoever. Provided always, and his Majesty's express will and meaning was, That only that one fifth part of all the gold and silver ore abovementioned, in the whole, and no more, should be answered, reserved, or payable unto our said royal grandfather, his heirs and successors, by colour or virtue of the said last mentioned letters patents, the double reservations, or recitals aforesaid, or any thing therein contained notwithstanding. And to the end that the affairs and business which, from time to time, should happen and arise concerning the said lands, and the plantations of the same, might be the better managed and ordered, and for the good government thereof, our said royal grandfather, King Charles the First, did, by his said letters patents, create and make the said Sir Henry Roswell, &c., and all such others as should thereafter be admitted and made free of the company and society therein after mentioned, one body corporate and politic in fact and name, by the name of the Governor and Company of the Massachusetts Bay, in New-England; and did grant unto them and their successors, divers powers, liberties, and privileges, as in and by the said letters patents may more fully and at large appear. And whereas the said governor and company of the Massachusetts Bay, in New-England, by virtue of the said letters patents, did settle a colony of the English in the said parts of America, and divers good subjects of this kingdom, encouraged and invited by the said letters patents, did transport themselves and their effects into the same, whereby the said plantation did become very populous, and divers counties, towns, and places, were created, erected, made, and set forth, or designed within the said parts of America by the said governor and company, for the time being. And whereas, in the term of the Holy Trinity, in the thirty-sixth year of the reign of our dearest uncle King Charles the Second, a judgment was given in our court of chancery then sitting at Westminster, upon a writ of *scire facias* brought and prosecuted in the said court against the governor and company of the Massachusetts Bay, in New England; and that the said letters patent of our said royal grandfather, King Charles the First, bearing date at Westminster, the fourth day of March, in the fourth year of his reign, made and granted to the said governor and company of the Massachusetts Bay, in New-England, and the enrollment of

Body corporate.

The first charter vacated by a judgment in chancery. anno 1664.

The agents of that colony petitioned to be reincorporated, as formerly.

The Massachusetts, Plymouth, and the province of Main, Nova Scotia, united, and made one province.

The extent and bounds of that province.

the same, should be cancelled, vacated, and annihilated, and should be brought into the said court to be canceled, (as in and by the said judgment, remaining upon record in the said court, doth more at large appear.) And whereas several persons employed as agents in behalf of our said colony of the Massachusetts Bay, in New-England, have made their humble application unto us, that we would be graciously pleased, by our royal charter, to incorporate our subjects in our said colony, and to grant and confirm unto them such powers, privileges, and franchises, as in our royal wisdom should be thought most conducing to our interest and service, and to the welfare and happy state of our subjects in New-England. And we being graciously pleased to gratifie our said subjects; and also to the end our good subjects within our colony of New-Plymouth, in New-England aforesaid, may be brought under such a form of government, as may put them in a better condition of defence; and considering as well the granting unto them, as unto our subjects in the said colony of the Massachusetts Bay, our royal charter, with reasonable powers and privileges, will much tend, not only to the safety but to the flourishing estate of our subjects in the said parts of New-England, and also to the advancing of the ends for which the said plantations were at first encouraged, of our special grace, certain knowledge, and mere motion, have willed and ordained, and we do by these presents, for us, our heirs and successors, will and ordain, That the territories and colonies commonly called and known by the names of the colony of the Massachusetts Bay, and colony of New-Plymouth, the province of Main, the territory called Accada, or Nova Scotia; and all that tract of land lying between the said territories of Nova Scotia, and the said province of Main, be erected, united, and incorporated: and we do by these presents unite, erect, and incorporate the same into one real province, by the name of our province of the Massachusetts Bay, in New-England; and of our especial grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto our good subjects the inhabitants of our said province or territory of the Massachusetts Bay, and their successors, all that part of New-England, in America, lying and extending from the great river commonly called Monomack, alias Merimack, on the north part, and from three miles northward of the said river to the Atlantick or Western Sea or Ocean on the South part, and all the lands and hereditaments whatsoever, lying within the limits aforesaid, and extending as far as the outermost points or promontories of land called Cape-Cod, and Cape-Malabar, north and south, and in latitude, breadth, and in length, and longitude, of and within all the breadth and compass aforesaid, throughout the main land there, from the said Atlantic or Western Sea and Ocean, on the east part, towards the South Sea, or Westward, as far as our colonies of Rhode-Island, Connecticut, and the Narraganset country. And also, all that part and portion of main land, beginning at the entrance of Piscataway Harbour, and so to pass up the same into the river of Newichwannock, and through the same into the furthest head thereof, and from

thence north-westward ; till one hundred and twenty miles be finished, and from Piscataway Harbour's mouth aforesaid, north-eastward along the sea coast to Sagadahock, and from the period of one hundred and twenty miles aforesaid, to cross over land to the one hundred and twenty miles before reckoned up, into the land from Piscataway harbour through Newichwannock river ; and also, the north half of the isles of Shoals, together with the isles of Capawock, and Nantuckett near Cape-Cod aforesaid ; and also the lands and hereditaments lying and being in the country or territory, commonly called Accada, or Nova Scotia ; and all those lands and hereditaments lying and extending between the said country or territory of Nova Scotia ; and the said river of Sagadahock, or any part thereof ; and all lands, grounds, places, soils, woods, and wood-grounds, havens, ports, rivers, waters, and other hereditaments and premisses whatsoever, lying within the said bounds and limits aforesaid, and every part and parcel thereof. And also, all islands and islets lying within ten leagues directly opposite to the main land, within the said bounds ; and all mines and minerals, as well royal mines of gold and silver, as other mines and minerals whatsoever in the said lands and premisses, or any part thereof. To have and to hold the said territories, tracts, countries, lands, hereditaments, and all and singular other the premisses, with their and every of their appurtenances, to our said subjects the inhabitants of our said province of the Massachusetts Bay in New-England, and their successors, to their only proper use and behoof, for evermore: to be holden of us, our heirs and successors, as of our manor of East-Greenwich, in the county of Kent, by fealty only in free and common soccage: yielding and paying therefore yearly, to us, our heirs, and successors, the fifth part of all gold and silver ore, and precious stones, which shall, from time to time, and at all times hereafter, happen to be found, gotten, had and obtained in any of the said lands and premisses, or within any part thereof. Provided nevertheless, and we do for us, our heirs and successors, grant and ordain, That all and every such lands, tenements, and hereditaments, and all other estates, which any person or persons, or bodies politic or corporate, towns, villages, colleges, or schools, do hold and enjoy, or ought to hold and enjoy, within the bounds aforesaid, by or under any grant or estate, duly made or granted by any general court formerly held, or by virtue of letters patents herein before recited, or by any other lawful right or title whatsoever, shall be, by such person and persons, bodies politic and corporate, towns, villages, colleges, or schools, their respective heirs, successors, and assigns, for ever hereafter held and enjoyed, according to the purport and intent of such respective grant, under and subject nevertheless, to the rents and services thereby reserved, or made payable, any matter or thing whatsoever to the contrary notwithstanding. And provided also, That nothing herein contained shall extend, or be understood or taken to impeach or prejudice any right, title, interest, or demand, which Samuel Allen,* of London, merchant,

All mines and minerals granted to the inhabitants and their successors.

Saving one fifth of gold and silver ore, &c.

All lands, hereditaments, &c. formerly granted to any town, college, or school of learning, confirmed.

Saving for Samuel Allen's claim.

* As to who Samuel Allen was, and what his claim implied, see Belknap.

claiming from and under John Mason, Esq., deceased, or any other person or persons, hath or have, or claimeth, or claim, to have, hold, or enjoy, of, into, or out of any part or parts of the premisses, situate within the limits above-mentioned; but that the said Samuel Allen, and all and every such person and persons, may and shall have, hold, and enjoy, the same, in such manner (and no other than) as if these presents had not been or made.

Grants or conveyances not prejudiced for want of form.

It being our further will and pleasure, That no grants or conveyances of any lands, tenements, or hereditaments, to any towns, colleges, schools of learning, or to any private person or persons, shall be judged or taken to be avoided or prejudiced, for or by reason of any want or defect of form, but that the same stand and remain of force, and be maintained and adjudged, and have effect in such manner as the same should or ought, before the time of the said recited judgment, according to the laws and rules then and there usually practised and allowed. And we do further, for

The governor's council to consist of 28 assistants.

us, our heirs and successors, will, establish, and ordain, That from henceforth for ever, there shall be one governor, one lieutenant or deputy-governor, and one secretary of our said province or territory, to be, from time to time, appointed and commissioned by us, our heirs and successors, and eight-and-twenty assistants or councillors, to be advising and assisting to the governor of our said province or territory, for the time being, as by these presents is hereafter directed and appointed; which said councillors, or assistants, are to be constituted, elected, and chosen in such form and manner as hereafter in these presents is expressed. And for the better execution of our royal pleasure and grant in this behalf, we do, by these presents, for us, our heirs and successors, nominate, ordain, make, and constitute, our trusty and well-beloved Simon Broadstreet, John Richards, Nathaniel Saltenstall, Wait Winthrop, John Phillips, James Russel, Samuel Sewall, Samuel Appleton, Bartholomew Gedney, John Hathorn, Elishah Hutchinson, Robert Pike, Jonathan Corwin, John Jolliffe, Adam Winthrop, Richard Middlecot, John Forster, Peter Serjeant, Joseph Lynd, Samuel Heyman, Stephen Mason, Thomas Hinkley, William Bradford, John Walley, Barnabas Lothrop, Job Alcot, Samuel Daniel, and Sylvanus Davis, Esqrs., the first and present

The names of the assistants.

To continue until May, 1693, and until others are chosen by the assembly.

councillors or assistants of our said province, to continue in their said respective offices of trusts, of councillors or assistants, until the last Wednesday in May, which shall be in the year of our Lord one thousand, six hundred, and ninety-three, and until other councillors or assistants shall be chosen and appointed in their stead, in such manner as in these presents is expressed. And we do further, by these presents, constitute and appoint our trusty and well-beloved Isaac Addington, Esq., to be our first and present secretary of our said province, during our pleasure. And our will and pleasure is, That the governor of our said province, for the time being, shall have authority from time to time, at his discretion, to assemble and call together the councillors, or assistants, of our said province, for the time being; and that the said governor, with the said assistants, or councillors, or seven of them at the least, shall and may, from time to time, hold and keep a council for the ordering and

The governor with 7 assistants to be a council.

directing the affairs of our said province. And further, we will, and by these presents, for us, our heirs and successors, do ordain and grant, That there shall and may be convened, held, and kept by the governor, for the time being, upon every last Wednesday in the month of May, every year for ever, and at all such other times as the governour of our said province shall think fit and appoint, a great and general court or assembly; which said great and general court or assembly shall consist of the governor and council, or assistants, for the time being, and of such freeholders of our said province or territory, as shall be, from time to time, elected or deputed by the major part of the freeholders, and other inhabitants of the respective towns and places, who shall be present at such elections; each of the said towns and places being hereby impowered to elect and depute two persons, and no more, to serve for, and represent them respectively in the said great and general court, or assembly. To which great or general court, or assembly, to be held, as aforesaid, we do hereby, for us, our heirs and successors, give and grant full power and authority, from time to time, to direct, appoint, and declare what number each county, town, and place shall elect and depute to serve for, and represent them respectively in the said great and general court or assembly. Provided always, that no freeholder, or other person, shall have a vote in the election of members to serve in any great and general court, or assembly, to be held as aforesaid, who, at the time of such election, shall not have an estate of freehold, in land, within our said province or territory, to the value of forty shillings per annum, at the least, or other estate to the value of fifty pounds sterling; and that every person who shall be so elected, shall, before he sit or act in the said great and general court or assembly, take the oaths mentioned in an act of parliament, made in the first year of our reign, intituled, *An act for abrogating of the oaths of allegiance and supremacy, and appointing other oaths*, and thereby appointed to be taken instead of the oaths of allegiance and supremacy; and shall make, repeat, and subscribe the declaration mentioned in the said act, before the governor, or lieutenant, or deputy governor, or any two of the assistants for the time being, who shall be thereunto authorised and appointed by our said governor: and that the governor, for the time being, shall have full power and authority, from time to time, as he shall judge necessary, to adjourn, prorogue, and dissolve all great and general courts, or assemblies, met or convened, as aforesaid. And our will and pleasure is, and we do hereby, for us, our heirs and successors, grant, establish, and ordain, That yearly, once in every year, for ever hereafter, the aforesaid number of eight-and-twenty councillors, or assistants, shall be by the general court or assembly, newly chosen; that is to say, eighteen at least of the inhabitants of, or proprietors of lands, within the territory formerly called the colony of the Massachusetts Bay, and four at least of the inhabitants of, or proprietors of lands within the territory formerly called New-Plymouth, and three at the least of the inhabitants of, or proprietors of land within the territory formerly called the province of Main,

A general court or assembly to be held the last Wednesday in May, or oftener, every year.

Two assembly men to be chosen by the freeholders in every town.

The governor has power to adjourn, prorogue, and dissolve the assembly.

The governor's councillors to be inhabitants or proprietors of land in New-England.

Judges,
sheriffs,
justices, &c.,
to be ap-
pointed
with the
consent of
the gover-
nor's coun-
cil.

What oaths
are to be
taken.

and one at the least of the inhabitants of, or proprietors of land within the territory lying between the river of Sagadahock and Nova Scotia: and that the said councillors, or assistants, or any of them, shall or may, at any time hereafter, be removed and displaced from their respective places or trust of councillors or assistants, by any great or general court or assembly; and that if any of the said councillors, or assistants, shall happen to die, or be removed, as aforesaid, before the general day of election, that then, and in every such case, the great and general court or assembly, at their first sitting, may proceed to a new election of one or more councillors, or assistants, in the room or place of such councillors or assistants, so dying or removed. And we do further grant and ordain, That it shall and may be lawful for the said governor, with the advice and consent of the council, or assistants, from time to time, to nominate and appoint judges, commissioners of oyer and terminer, sheriffs, provosts, marshals, justices of the peace, and other officers, to our council and courts of justice belonging. Provided alway, That no such nomination or appointment of officers be made without notice first given, or summons issued out seven days before such nomination or appointment, unto such of the said councillors, or assistants, as shall be at that time residing within our said province. And our will and pleasure is, That the governor, and lieutenant or deputy governor, and councillors, or assistants, for the time being, and all other officers to be appointed or chosen, as aforesaid, shall, before the undertaking the execution of their offices and places respectively, take their several and respective oaths for the due and faithful performance of their duties in their several and respective offices and places; as also the oaths appointed by the said act of parliament, made in the first year of our reign, to be taken instead of the oaths of allegiance and supremacy, and shall make, repeat, and subscribe the declaration mentioned in the said act, before such person or persons, as are by these presents herein after appointed; that is to say, The governor of our said province or territory, for the time being, shall take the said oaths, and make, repeat, and subscribe the declaration before the lieutenant, or deputy governor, or, in his absence, before any two or more of the said persons hereby nominated and appointed, the present councillors, or assistants of our said province or territory, to whom we do, by these presents, give full power and authority to give and administer the same to our said governor accordingly. And after our said governor shall be sworn, and shall have subscribed the said declaration, that then our lieutenant, or deputy governor for the time being, and the councillors, or assistants, before by these presents nominated and appointed, shall take the said oaths, and make, repeat, and subscribe the said declaration before our said governor: and that every such person or persons as shall (at any time of the annual elections, or otherwise upon death or removal) be appointed to be the new councillor, or assistants, and all other officers to be hereafter chosen, from time to time, shall take the oaths to their respective offices and places belonging, and also the

said oaths appointed by the said act of parliament to be taken instead of the oaths of allegiance and supremacy, and shall make, repeat, and subscribe the declaration mentioned in the said act, before the governor, or lieutenant governor, or any two or more councillors, or assistants, or such other person or persons as shall be appointed thereunto, by the governor for the time being; to whom we do, therefore, by these presents, give full power and authority, from time to time, to give and administer the same respectively, according to our true meaning herein before declared, without any commission or further warrant, to be had and obtained from us, our heirs and successors, in that behalf. And our will and pleasure is, and we do hereby require and command, That all and every person and persons hereafter by us, our heirs and successors, nominated and appointed to the respective offices of governor, or lieutenant or deputy governor, and secretary of our said province or territory (which said governor, or lieutenant or deputy governor, and secretary of our said province or territory, for the time being, we do hereby reserve full power and authority to us, our heirs and successors, to nominate and appoint accordingly) shall, before he or they be admitted to the execution of their respective offices, take as well the oath for the due and faithful performance of the said offices respectively, as also the oaths appointed by the said act of parliament, made in the said first year of our reign, to be taken instead of the said oaths of allegiance and supremacy, and shall also make, repeat and subscribe the declaration appointed by the said act, in such manner, and before such persons as aforesaid. And further, our will and pleasure is, and we do hereby, for us, our heirs and successors, grant, establish, and ordain, That all and every of the subjects of us, our heirs and successors, which shall go to, and inhabit within our said province or territory, and every of their children which shall happen to be born there, or on the seas in going thither, or returning from thence, shall have and enjoy all liberties and immunities of free and natural subjects within any of the dominions of us, our heirs and successors, to all intents, constructions, and purposes whatsoever, as if they and every of them were born within this our realm of England. And for the greater ease and encouragement of our loving subjects, inhabiting our said province or territory of the Massachusetts Bay, and of such as shall come to inhabit there, we do by these presents, for us, our heirs and successors, grant, establish, and ordain, That, for ever hereafter, there shall be a liberty of conscience allowed in the worship of God to all Christians (except papists) inhabiting, or which shall inhabit, or be resident within our said province or territory. But we do hereby grant and ordain, that the governor, or lieutenant, or deputy governor of our said province or territory, for the time being, or either of them, or any two or more of the council or assistants, for the time being, as shall be thereunto appointed by the said governor, shall and may, at all times, and from time to time hereafter, have full power and authority to administer and give the oaths appointed by the said act of parliament, made in the first year of our reign, to be taken instead

The king reserves to himself power to appoint the governor, deputy governor, and secretary.

Persons born in New England to have the privileges of natural subjects of England.

Liberty of conscience to be granted to all christians, except papists.

The general court has power to erect judicatories, to hear and determine all manner of crimes, capital or not capital; and pleas, whether real, personal, or mixt.

Wills.

Appeals to the King in some personal actions.

Execution not to be staid.

The general court has power to

of the oaths of allegiance and supremacy, to all and every person and persons which are now inhabiting, or residing within our said province or territory, or which shall at any time or times hereafter go or pass thither. And we do, of our further grace, certain knowledge, and mere motion, grant, establish, and ordain, for us, our heirs and successors, That the great and general court, or assembly, of our said province or territory, for the time being, convened as aforesaid, shall for ever have full power and authority to erect and constitute judicatories, and courts of record, or other courts, to be held in the name of us, our heirs and successors, for the hearing, trying, and determining of all and all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes, and things whatsoever, arising or happening within our said province or territory, or between persons inhabiting or residing there, whether the same be criminal or civil, and whether the said crimes be capital or not capital, and whether the said pleas be real, personal, or mixt; and for the awarding and making out of execution thereupon: to which courts, and judicatories, we do hereby, for us, our heirs and successors, give and grant full power and authority, from time to time, to administer oaths, for the better discovery of truth, in any matter of controversie, or depending before them. And we do, for us, our heirs, and successors, grant, establish, and ordain, That the governor of our said province or territory, for the time being, with the council or assistants, may do, execute, or perform, all that is necessary for the probate of wills, and granting of administrations, for, touching, or concerning any interest or estate, which any person or persons shall have within our said province or territory. And whereas we judge it necessary, that all our subjects should have liberty to appeal to us, our heirs, and successors, in cases that may deserve the same, we do, by these presents, ordain, That in case either party shall not rest satisfied with the judgment or sentence of any judicatories, or courts within our said province or territory, in any personal action, wherein the matter in difference doth exceed the value of three hundred pounds sterling, that then he or they may appeal to us, our heirs, and successors, in our or their privy council: provided, that such appeal be made within fourteen days after the sentence or judgment given; and that before such appeal be allowed, security be given by the party or parties appealing, in value of the matter in difference, to pay or answer the debt or damages, for the which judgment or sentence is given, with such costs and damages as shall be awarded by us, our heirs, or successors, in case the judgment or sentence be affirmed. And provided also, That no execution shall be staid or suspended, by reason of such appeal unto us, our heirs, and successors, in our or their privy council, so as the party suing or taking out execution, do in the like manner give security, to the value of the matter in difference, to make restitution, in case the said judgment or sentence be reversed or annulled upon the said appeal. And we do further, for us, our heirs, and successors, give and grant to the said governor, and the great and general court or assembly of our

said province or territory, for the time being, full power and authority, from time to time, to make, ordain, and establish all manner of wholesome and reasonable orders, laws, statutes, and ordinances, directions, and instructions, either with penalties or without (so as the same be not repugnant or contrary to the laws of this our realm of England) as they shall judge to be for the good and welfare of our said province or territory, and for the government and ordering thereof, and of the people inhabiting, or who shall inhabit the same, and for the necessary support and defence of the government thereof. And we do for us, our heirs, and successors, give and grant, that the said general court, or assembly, shall have full power and authority to name and settle annually, all civil officers within the said province, such officers excepted, the election and constitution of whom we have, by these presents, reserved to us, our heirs, and successors, or to the governors of our said province for the time being; and to set forth the several duties, powers, and limits of every such officer, to be appointed by the said general court or assembly; and the forms of such oaths, not repugnant to the laws and statutes of this our realm of England, as shall be respectively administered unto them for the execution of their several offices and places; and also, to impose fines, mulcts, imprisonments, and other punishments; and to impose and levy proportionable and reasonable assessments, rates, and taxes, upon the estates and persons of all and every the proprietors or inhabitants of our said province or territory, to be issued and disposed of by warrant, under the hand of the governor of our said province, for the time being, with the advice and consent of the council, for our service in the necessary defence and support of our government of our said province or territory, and the protection and preservation of the inhabitants there, according to such acts as are, or shall be in force within our said province; and to dispose of matters and things, whereby our subjects, inhabitants of our said province, may be religiously, peaceably, and civilly governed, protected, and defended, so as their good life and orderly conversation may win the Indians, natives of the country, to the knowledge and obedience of the only true God and Saviour of mankind, and the Christian faith, which his late Majesty, our royal grandfather, King Charles the First, in his said letters patents, declared was his royal intentions, and the adventurers free profession, to be the principal end of the said plantation. And for the better securing and maintaining liberty of conscience, hereby granted to all persons, at any time, being, and residing within our said province or territory, as aforesaid, willing, commanding, and requiring, and by these presents, for us, our heirs and successors, ordaining and appointing, that all such orders, laws, statutes, and ordinances, instructions and directions, as shall be so made and published under our seal of our said province or territory, shall be carefully and duly observed, kept, and performed, and put in execution, according to the true intent and meaning of these presents. Provided always, and we do by these presents, for us, our heirs and successors, establish

make laws,
not repug-
nant to the
laws of
England.

To name
and settle
civil officers,
except, &c.

Power to im-
pose taxes
on all the
inhabitants,
to be dispos-
ed by war-
rant from
the gover-
nor and
council, or
according to
such acts as
shall then
be in force.

The conver-
sion of the
Indians to
be endea-
voured.

The governor to have a negative on the acts of the general assembly &c.

Laws to be sent to England for the royal approbation.

If not disallowed within 3 years, to be in force until repealed by the assembly.

The general court has power to pass any grants of land in Massachusetts, Plymouth, or the province of Maine.

Grants of land between Sagadahock and St. Lawrence, to have the royal approbation.

The governor to command the militia.

and ordain, That in the framing and passing of all such orders, laws, statutes, and ordinances, and in all elections and acts of government whatsoever, to be passed, made, or done by the said general court, or assembly, or council, the governor of our said province or territory of the Massachusetts Bay, in New-England, for the time being, shall have the negative voice; and that without his consent or approbation, signified and declared in writing, no such orders, laws, statutes, ordinances, elections, or other acts of government whatsoever, so to be made, passed, or done by the said general assembly, or in council, shall be of any force, effect, or validity, any thing herein contained to the contrary, in any wise, notwithstanding. And we do, for us, our heirs and successors, establish and ordain, That the said orders, laws, statutes, and ordinances, be, by the first opportunity after the making thereof, sent or transmitted unto us, our heirs and successors, under the publick seal, to be appointed by us, for our or their approbation or disallowance; and that in case all or any of them shall, at any time within the space of three years next after the same shall have been presented to us, our heirs and successors, in our or their privy council, be disallowed and rejected, and so signified by us, our heirs and successors, under our or their sign manuel and signet, or by order in our or their privy council, unto the governor for the time being, then such and so many of them as shall be so disallowed and rejected, shall thenceforth cease and determine, and become utterly void and of none effect. Provided always, that in case we, our heirs or successors, shall not, within the term of three years after the presenting of such orders, laws, statutes, or ordinances, as aforesaid, signifie our or their disallowance of the same, then the said orders, laws, statutes, or ordinances, shall be and continue in full force and effect, according to the true intent and meaning of the same, until the expiration thereof, or that the same shall be repealed, by the general assembly of our said province, for the time being. Provided also, That it shall and may be lawful for the said governor and general assembly, to make or pass any grant of lands lying within the bounds of the colonies formerly called the colonies of the Massachusetts Bay, and New-Plymouth, and province of Maine, in such manner as heretofore they might have done, by virtue of any former charter or letters patents; which grants of lands, within the bounds aforesaid, we do hereby will and ordain, to be and continue, for ever, of full force and effect, without our further approbation or consent; and so as nevertheless, and it is our royal will and pleasure, that no grant or grants of any lands lying or extending from the river of Sagadahock, to the gulph of St. Lawrence and Canada rivers, and to the main sea northward and eastward, to be made or past by the governor and general assembly of our said province, be of any force, validity or effect, until we, our heirs and successors, shall have signified our or their approbation of the same. And we do, by these presents, for us, our heirs and successors, grant, establish, and ordain, That the governor of our said province or territory, for the time being, shall have full power, by himself, or by any chief commander, or other officer or officers, to

be appointed by him, from time to time, to train, instruct, exercise, and govern the militia there; and for the special defence and safety of our said province or territory, to assemble in martial array, and put in warlike posture, the inhabitants of our said province or territory, and to lead and conduct them, and with them to encounter, expulse, repel, resist, and pursue by force of arms, as well by sea as by land, within or without the limits of our said province or territory; and also to kill, slay, destroy, and conquer, by all fitting ways, enterprizes, and means whatsoever, all and every such person and persons as shall, at any time hereafter, attempt or enterprize the destruction, invasion, detriment, or annoyance of our said province or territory; and use to and exercise the law martial in time of actual war, invasion, or rebellion, as occasion shall necessarily require; and also, from time to time, to erect forts, and to fortify any place or places within our said province or territory, and the same to furnish with all necessary ammunition, provision, and stores of war, for offence or defence, and to commit, from time to time, the custody and government of the same, to such person or persons as to him shall seem meet, and the said forts and fortifications to demolish at his pleasure; and to take and surprize, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in a hostile manner invade, or attempt the invading, conquering, or annoying of our said province or territory. Provided always, and we do, by these presents, for us, our heirs and successors, grant, establish, and ordain, That the said governor shall not, at any time hereafter, by virtue of any power hereby granted, or hereafter to be granted to him, transport any of the inhabitants of our said province or territory, or oblige them to march out of the limits of the same, without their free and voluntary consent, or the consent of the great and general court or assembly of our said province or territory; nor grant commissions for exercising the law martial upon any the inhabitants of our said province or territory, without the advice and consent of the council, or assistants of the same. Provided in like manner, and we do, by these presents, for us, our heirs or successors, constitute and ordain, That when, and as often as the governor of our said province, for the time being, shall happen to die, or to be displaced by us, our heirs or successors, or be absent from his government, that then, and in any of the said cases, the lieutenant or deputy governor of our said province, for the time being, shall have full power and authority to do and execute all and every such acts, matters, and things, which our governor of our said province, for the time being, might or could, by virtue of these our letters patents, lawfully do or execute, if he were personally present, until the return of the governor so absent, or arrival or constitution of such other governor as shall or may be appointed by us, our heirs or successors, in his stead: and that when, and as often as the governor, and lieutenant, or deputy governor of our said province or territory, for the time being, shall happen to die, or be displaced by us, our heirs or successors, or be absent from our

Law martial.

No persons to be transported out of the province without their own consent.

The law martial not to be executed on any inhabitant without the consent of the council.

In the absence of the governor, the deputy governor to have the same power.

In the absence of both the governor and deputy go-

vernor, the major part of the council to have their power.

said province, and that there shall be no person within the said province commissioned by us, our heirs or successors, to be governor within the same, then, and in every of the said cases, the council, or assistants of our said province, shall have full power and authority, and we do hereby give and grant unto the said council, or assistants of our said province, for the time being, or the major part of them, full power and authority to do and execute all and every such acts, matters, and things, which the said governor, or lieutenant or deputy governor of our said province or territory, for the time being, might or could lawfully do or exercise, if they, or either of them, were personally present, until the return of the governor, or lieutenant or deputy governor so absent, or arrival, or constitution of such other governor, or lieutenant or deputy governor, as shall or may be appointed by us, our heirs or successors, from time to time. Provided always, and it is hereby declared, That nothing herein contained shall extend or be taken to erect, or grant, or allow the exercise of any admiral court, jurisdiction, power, or authority, but that the same shall be, and is hereby reserved to us and our successors, and shall, from time to time, be erected, granted, and exercised, by virtue of commissions to be issued under the great seal of England, or under the seal of the high admiral, or the commissioners for executing the office of high admiral of England. And further, our express will and pleasure is, and we do, by these presents, for us, our heirs and successors, ordain and appoint, That these our letters patents shall not, in any manner, enure, or be taken to abridge, bar, or hinder any of our loving subjects whatsoever, to use and exercise the trade of fishing upon the coasts of New-England, but that they, and every of them, shall have full and free power and liberty to continue and use the said trade of fishing upon the said coasts, in any of the seas thereunto adjoining, or any arms of the said seas, or salt-water rivers, where they have been wont to fish; and to build and set upon the lands within our said province or colony, lying waste, and not then possessed by particular proprietors, such wharfs, stages, and work-houses, as shall be necessary for the salting, drying, keeping, and packing of their fish, to be taken or gotten upon that coast; and to cut down and take such trees, and other materials there growing, or being upon any parts or places lying waste, and not then in possession of particular proprietors, as shall be needful for that purpose, and for all other necessary easements, helps, and advantages concerning the said trade of fishing there, in such manner and form as they have been heretofore at any time accustomed to do, without making any wilful waste or spoil, any thing in these presents contained to the contrary notwithstanding. And lastly, for the better providing and furnishing of masts for our royal navy, we do hereby reserve to us, our heirs and successors, all trees of the diameter of twenty-four inches and upwards, at twelve inches from the ground, growing upon any soil or tract of land within our said province or territory, not heretofore granted to any private persons; and we do restrain and forbid all persons whatsoever, from felling, cutting, or de-

Admiralty jurisdiction reserved.

The trade of fishing not to be abridg'd.

Trees fit for masts, not growing upon any soil granted to particular persons, to be preserved.

stroying any such trees, without the royal licence of us, our heirs and successors, first had and obtained, upon penalty of forfeiting one hundred pounds sterling unto us, our heirs and successors, for every such tree so felled, cut, or destroyed, without such licence had or obtained in that behalf; anything in these presents contained to the contrary, in any wise notwithstanding.

In witness whereof, we have caused these our letters to be made patents. Witness ourselves at Westminster, the seventh day of October, in the third year of our reign.

By writ of Privy Seal,

PIGOT.

NEW HAMPSHIRE AND MAINE.

WITH respect to the other New-England States, the circumstances were these. As to New Hampshire and Maine, they were properly offshoots from the mother colony of Massachusetts about the time of the formation of the settlement of Rhode Island. These provinces, it should be added, had been respectively purchased from the Council of Plymouth by Mason and Gorges, who wished to become their proprietaries or hereditary chiefs. But they found it impracticable to obtain a revenue from the settlers, or to establish the form of government they contemplated. On the contrary, the settlers—composed partly of adventurers from England, and partly of exiles and voluntary emigrants from Massachusetts—framed for themselves separate governments, to which, for a few years, they yielded a precarious obedience; till, ‘wearied with internal disputes and divisions, they besought the protection of the general court of Massachusetts, and obtained leave to be included within the pale of its jurisdiction.’* A controversy at the same time arose between Massachusetts and Mason, respecting her right to include New Hampshire, but Massachusetts being at that time strong and active, succeeded not only in establishing her jurisdiction, but maintained it unimpaired for some 40 years.† The controversy was finally brought before the King in Council, and in 1679 it was solemnly adjudged against the claim of Massachusetts. But as Mason under his grant had no right to exercise any powers of government, a commission was issued by the Crown for that purpose. By the form of government described in the commission, the executive power was vested in a President and Council appointed by the Crown, to whom also was confided the judiciary power, with an appeal to England. The legislative power was entrusted to the President, Council, and burgesses or representatives chosen by the towns; and

* Grahame, quoting Heal and Hutchinson.

† Chalmers' Annals. Hutchinson. Belknap.

they were authorized to levy taxes and to make laws for the interest of the province, which laws were to stand and be in force until changed or totally disallowed by the King. Under this commission New Hampshire was governed, till the period of the English Revolution, as a royal province, and enjoyed the privilege of enacting her own laws through the instrumentality of a General Assembly. Some alterations were made in the successive commissions, but, according to the authority of Mr. Justice Story, none of them made any substantive change in the organization of the province. Maine, on the other hand, was separated from Massachusetts for a brief period, in 1665. But the authority of Massachusetts was speedily re-established, and though her claim to a jurisdiction over the province was brought before the Privy Council at the same time with that of Mason respecting New Hampshire, and was adjudged void in 1679, she had previously had the prudence and sagacity, in 1677, to purchase the title of Gorges for a trifling sum. 'Thus,' says Story, 'to the great disappointment of the Crown, (then in treaty for the same object,) she succeeded to it, and held it as a provincial dependency until the fall of her own Charter;' and afterwards (as we have seen) it was incorporated with Massachusetts by her second Charter of 1691.

PROPRIETARY CHARTERS.

MARYLAND.

THE province of Maryland was included originally in the Patent of the Southern or Virginian Company; but it was nevertheless granted by Charles the First, on the 20th of June, 1632, to Cecilius Calvert, Lord Baltimore. The Charter provides that the Proprietary shall have authority, by and with the consent of the freemen or their delegates assembled for the purpose, to make all laws for the province; 'so that such laws be consonant to reason, and not repugnant or contrary, *but, as far as conveniently might be*, agreeable to the laws, statutes, customs, and rights of this our realm of England.' The Proprietary is also invested with full executive power, and the establishment of Courts of Justice is provided for. There is the usual, but perhaps unnecessary, clause, that the inhabitants and their children are to enjoy all the rights, immunities, and privileges of subjects born in England. The right of the advowsons of the churches according to the establishment of England, and the right to create Manors and Courts-baron, *to confer titles of dignity*, to erect and incorporate Boroughs and Cities, and to erect ports, and other regalities, is expressly given to the Proprietary. An exemption of the colonists from all tallages on their goods and estates to be imposed by the Crown, is expressly covenanted for in perpetuity—an exemption which hitherto, it is deserving of remark, had been conferred on other Colonies for years only. Licence is granted to all subjects to transport themselves to the province; and its products are to be imported into England and Ireland, under such taxes only as are paid by other subjects. The usual powers contained in the other Charters, to repel invasions, to suppress rebellions, &c., are also conferred on the Proprietary. As to this Patent, therefore, Chalmers has asserted, with a natural pride, that 'Maryland has always enjoyed the unrivalled honour of being the first Colony which was erected into a province of the English Empire, and governed regularly by laws enacted in a provincial legislature.' Also it had this peculiarity, that its laws were not made subject to the supervision and control of the Crown; and in this important particular it differed from the Proprietary governments of Penn-

sylvania and Delaware. Under this Charter, Maryland continued to be governed, with some short intervals of interruption, down to the period of the American Revolution, by the successors of the original Proprietary.

It should be added, that, as early as the year 1642, the Burgesses elected to the existing Assembly had expressed a desire 'that they might be separated and sit by themselves, and have a negative.' Their proposition was disallowed at that time; but, in 1650, in conformity with it, a law was passed, enacting that members called to the Assembly by special writ of the Proprietary, should form the Upper House; and those who were chosen by their fellow-colonists should form the Lower House; and that all Bills approved by the two branches of the legislature, and ratified by the Governor, should be acknowledged and obeyed as the laws of the province. Thus, excepting the substitution of the Governor for the Proprietary, in derogation of the vice-regal power of the latter, Maryland possessed a miniature of the English constitution.

*Maryland Charter, granted by King CHARLES I. to CÆCILIUS,
LORD BARON OF BALTIMORE.*

[Translated from the Latin original.]

CHARLES, by the Grace of God, King of England, Scotland, France, and Ireland, defender of the faith, &c. To all to whom these presents shall come, greeting: Whereas our right trusty and well-beloved subject Cæcilius Calvert, baron of Baltimore, in our kingdom of Ireland, son and heir of Sir George Calvert, knight, late baron of Baltimore, in the same kingdom of Ireland, pursuing his father's intentions, being excited with a laudable and pious zeal for the propagation of the Christian faith, and the enlargement of our empire and dominion, hath humbly besought leave of us, by his industry and charge, to transport an ample colony of the English nation unto a certain country hereafter described, in the parts of America not yet cultivated and planted, though in some parts thereof inhabited by certain barbarous people, having no knowledge of Almighty God; and hath humbly besought our royal Majesty to give, grant, and confirm the said country, with certain privileges and jurisdictions, requisite for the said government and state of his colony and country, aforesaid, to him and his heirs for ever.

Grant.

Know ye therefore, That we, favouring the pious and noble purpose of the said barons of Baltimore, of our special grace, certain knowledge, and mere motion, have given, granted, and confirmed, and by this our present charter, for us, our heirs and successors, do give, grant, and confirm, unto the said Cæcilius, now Baron of Baltimore, his heirs and assigns, all that part of a peninsula, lying in the parts of America, between the ocean on the east, and the bay of Chesapeak on the west, and divided from the other part thereof by a right line drawn from the promontory,

Lands
granted.

or cape of land, called Watkin's Point (situate in the aforesaid bay, near the river of Wigbeo) on the west, unto the main ocean on the east; and between that bound on the south unto that part of Delaware bay on the north, which lieth under the fortieth degree of northerly latitude from the equinoctial where New England ends; and all that tract of land between the bounds aforesaid; that is to say, passing from the aforesaid unto the aforesaid bay called Delaware bay, in a right line by the degree aforesaid, unto the true meridian of the first fountain of the river Potowmack, and from thence tending toward the south unto the further bank of the aforesaid river, and following the west and south side thereof unto a certain place called Cinquack, situate near the mouth of the said river, where it falls into the bay of Chesapeake, and from thence by a streight line unto the aforesaid promontory and place called Watkin's Point (so that all that tract of land divided by the line aforesaid, drawn between the main ocean and Watkin's Point, unto the promontory called Cape Charles, and all its appurtenances, do remain entirely excepted to us, our heirs and successors, for ever.)

We do also grant and confirm unto the said lord Baltimore, his heirs and assigns, all islands and islets within the limits aforesaid, and all and singular the islands and islets which are or shall be in the ocean, within ten leagues from the eastern shore of the said country towards the east, with all and singular ports, harbours, bays, rivers, and inlets belonging unto the country and islands aforesaid; and all the soil, lands, fields, woods, mountains, fens, lakes, rivers, bays, and inlets, situate or being within the bounds and limits aforesaid; with the fishing of all sorts of fish, whales, sturgeons, and all other royal fishes in the sea, bays, inlets, or rivers, within the premises, and the fish therein taken. And moreover, all veins, mines, and quarries, as well discovered as not discovered, of gold, silver, gems, and precious stones, and all other whatsoever, be it of stones, metals, or of any other thing or matter whatsoever, found, or to be found, within the country, isles and limits aforesaid. And furthermore the patronages and advowsons of all churches, which (as Christian religion shall increase within the country, isles, islets, and limits aforesaid) shall happen hereafter to be erected; together with licence and power to build and found churches, chapels, and oratories, in convenient and fit places within the premises, and to cause them to be dedicated and consecrated according to the ecclesiastical laws of our kingdom of England: together with all and singular the like, and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties, immunities, royal rights and franchises, of what kind soever, temporal, as well by sea as by land, within the country, isles, islets, and limits aforesaid; to have, exercise, use and enjoy the same, as amply as any bishop of Durham, within the bishoprick or county palatine of Durham, in our kingdom of England, hath at any time heretofore had, held, used, or enjoyed, or of right ought or might have had, held, used, or enjoyed.

Patronage of all churches, with licence to build them.

Royal rights and privileges of the same nature and extent as those enjoyed by the bishop of Durham.

And him the said now Lord Baltimore, his heirs and assigns, we do by these presents for us, our heirs, and successors, make, Saving of the allegiance of the

inhabitants
and sove-
reign domi-
nion of the
country.

Habendum.

Tenendum.

Erection
of the said
country in-
to a pro-
vince, by
the name of
Maryland.

Grant of
the power
to make
laws for the
said pro-
vince, by
the advice
and with
the consent
of the free-
men there-
of, or their
deputies.

And of the
power to
execute the
said laws,
and of all
other judi-
cial powers
whatsoever.

create, and constitute the true and absolute lords and proprietaries of the said country aforesaid, and of all other the premises, (except before excepted) saving always the faith and allegiance, and sovereign dominion due unto us, our heirs and successors, To have, hold, possess, and enjoy the said country, isles, inlets, and other the premises, unto the said now Lord Baltimore, his heirs and assigns, to the sole and proper use and behoof of him the said now Lord Baltimore, his heirs and assigns, for ever.

To be holden of us, our heirs and successors, Kings of England, as of our castle of Windsor, in our county of Berks, in free and common soccage, by fealty only, for all services, and not *in capite*, or by knights service; yielding and paying therefore to us, our heirs and successors, two Indian arrows of those parts, to be delivered at our said castle of Windsor, every year, the Tuesday in Easter week, and also the fifth part of all gold and silver ore, within the limits aforesaid, which shall, from time to time, happen to be found.

Now, that the said country, thus by us granted and described, may be eminent above all other parts of the said territory, and dignified with large titles, Know ye, that we, of our further grace, certain knowledge, and mere motion, have thought fit to erect the same country and islands into a province; as out of the fullness of our royal power and prerogative, we do for us, our heirs and successors, erect and incorporate them into a province, and do call it Maryland, and so from henceforth we will have it called.

And forasmuch as we have hereby made and ordained the aforesaid now Lord Baltimore, the true lord and proprietary of all the province aforesaid: Know ye, therefore, that we, reposing special trust and confidence in the fidelity, wisdom, justice, and provident circumspection of the said now Lord Baltimore, for us, our heirs, and successors, do grant free, full, and absolute power, by virtue of these presents, to him and his heirs, for the good and happy government of the said country, *to ordain, make, enact, and under his and their seals to publish, any laws whatsoever, appertaining either unto the public state of the said province, or unto the private utility of particular persons, according to their best discretions, by and with the advice, assent, and approbation of the freemen of the said province, or the greater part of them, or of their delegates or deputies, whom for the enacting of the said laws,*

when and as often as need shall require, we will, that the said now Lord Baltimore, and his heirs, shall assemble in such sort and form as to him and them shall seem best, and the said laws duly to execute upon all people within the said province and limits thereof, for the time being, or that shall be constituted under the government and power of him or them, either sailing towards Maryland, or returning from thence towards England, or any other of ours or foreign dominions, by imposition of penalties, imprisonment, or any other punishment: yea, if it shall be needful, and that the quality of the offence require it, by taking away members or life, either by him the said now Lord Baltimore, and his heirs, or by his or their deputies, lieutenants, judges, justices, magistrates, officers, and ministers, to be ordained or

appointed, according to the tenor and true intention of these presents; and likewise to appoint and establish any judges, justices, magistrates, and officers, whatsoever, at sea and land, for what cause soever, and with what power soever, and in such form as to the said now Lord Baltimore, or his heirs, shall seem most convenient; also to remit, release, pardon, and abolish, whether before judgment or after, all crimes and offences whatsoever, against the said laws, and to do all and every other thing or things, which unto the complete establishment of justice unto courts, prætories, and tribunals, forms of judicature, and manners of proceedings, do belong, altho' in these presents express mention be not made thereof; and by judges by them delegated to award process, hold pleas, and determine, in all the said courts and tribunals, all actions, suits, and causes whatsoever, as well criminal as civil, personal, real, mixt, and prætorial, which laws, so, as aforesaid, to be published, our pleasure is, and so we enjoin, require, and command, shall be most absolute and available in law; and that all the liege people and subjects of us, our heirs and successors, do observe and keep the same inviolably, in those parts, so far as they concern them, under the pains therein expressed, or to be expressed; provided nevertheless, That the said laws be consonant to reason, and be not repugnant or contrary, but, as near as conveniently may be, agreeable to the laws, statutes, and rights of this our kingdom of England.

Proviso that the said laws shall be consonant to reason, and not repugnant to the laws of England.

And forasmuch as in the government of so great a province, sudden accidents do often happen, whereunto it will be necessary to apply a remedy, before the freeholders of the said province, or their delegates or deputies, can be assembled to the making of laws; neither will it be convenient, that instantly upon every such emergent occasion, so great a multitude should be called together; therefore, for the better government of the said province, we will and ordain, and by these presents, for us, our heirs and successors, do grant unto the said now Lord Baltimore, and his heirs, by themselves, or by their magistrates and officers, in that behalf duly to be ordained, as aforesaid, to make and constitute fit and wholesome ordinances, from time to time, within the said province, to be kept and observed, as well for the preservation of the peace, as for the better government of the people there inhabiting, and publicly to notify the same to all persons whom the same doth or may any way concern; which ordinances, our pleasure is, shall be observed inviolably, within the said province, under the pains therein to be expressed; so as the said ordinances be consonant to reason, and be not repugnant nor contrary, but so far as conveniently may be, agreeable to the laws and statutes of the kingdom of England; and so as the said ordinances be not extended in any sort, to bind, charge, or take away the right or interest of any person or persons, or of their life, members, freehold, goods or chattels.

Power in certain cases to make ordinances, not extending to life, limb, freehold, or goods and chattels, without an assembly of the free-men.

Furthermore, that this new colony may the more happily increase by the multitude of people resorting thither, and may likewise be the more strongly defended from the incursions of savages, or other enemies, pirates and robbers: therefore we, for us, our

Licence to the King's subjects in England and Ireland

to go and settle themselves and families in the said province.

heirs and successors, do give and grant, by these presents, power, licence, and liberty, unto all the liege people and subjects, both present and future, for us, our heirs and successors, (excepting those who shall be specially forbidden) to transport themselves and families unto the said province, with convenient shipping, and fitting provisions, and there to settle themselves, dwell and inhabit; and to build and fortify castles, forts, and other places of strength for the public, and their own private defence, at the appointment of the said now Lord Baltimore, and his heirs, the statute of fugitives, or any other whatsoever, the contrary of the premises, in any wise notwithstanding.

General denization of all the settlers in the said province, both present and to come.

And we will also, and of our more special grace, for us, our heirs and successors, we do strictly enjoin, constitute, ordain, and command, That the said province shall be of our allegiance, and that all and singular the subjects and liege people of us, our heirs and successors, transported or to be transported into the said province, and the children of them, and of such as shall descend from them, there already born, or hereafter to be born, be, and shall be denizens and lieges of us, our heirs and successors, of our kingdoms of England and Ireland, and be in all things held, treated, reputed and esteemed, as the liege faithful people of us, our heirs and successors, born within our kingdom of England; and likewise, any lands, tenements, revenues, services and other hereditaments whatsoever, within our kingdom of England, and other our dominions, may inherit, or otherwise purchase, receive, take, have, hold, buy and possess, and them may occupy and enjoy, give, sell, alien and bequeath, as likewise all liberties, franchises and privileges, of this our kingdom of England, freely, quietly and peaceably, have and possess, occupy and enjoy, as our liege people, born, or to be born, within our said kingdom of England, without the let, molestation, vexation, trouble or grievance of us, our heirs and successors; any statute, act, ordinance or provision to the contrary thereof notwithstanding.

Grant to the said settlers of a liberty to trade to the said province.

And furthermore, that our subjects may be the rather encouraged to undertake this expedition with ready and cheerful minds, know ye, That we, of our special grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well unto the said now Lord Baltimore, and his heirs, as to all others who shall, from time to time, repair unto the said country with a purpose to inhabit there, or to trade with the natives of the said province, full licence to lade and freight in any ports whatsoever, of us, our heirs and successors, and into the said province of Maryland, by them, their servants or assigns, to transport all and singular their goods, wares, and merchandizes, as likewise all sorts of grain whatsoever, and all other things whatsoever necessary for food or cloathing, not prohibited by the laws and statutes of our kingdoms and dominions to be carried out of the said kingdoms, any statute, act, ordinance, or other thing whatsoever to the contrary notwithstanding, without any lett or molestation of us, our heirs and successors, or of any the heirs of us, our heirs and successors; saving always to us, our heirs and successors, the legal impositions, customs, and other duties and

payments for the said wares and merchandize, any statute, act, ordinance, or other thing whatsoever to the contrary notwithstanding.

And because in so remote a country, and situate near so many barbarous nations, the incursions as well of the savages themselves, as of other enemies, pirates, and robbers, may probably be feared, therefore we have given, and for us, our heirs and successors, do give power, by these presents, unto the said now Lord Baltimore, his heirs and assigns, by themselves or their captains, or other their officers, to levy, muster, and train all sorts of men, of what condition or wheresoever born, in the said province of Maryland, for the time being, and to make war, and pursue the enemies and robbers aforesaid, as well by sea as by land, yea, even without the limits of the said province, and (by God's assistance) to vanquish and take them; and being taken, to put them to death, by the law of war, or to save them, at their pleasure; and to do all and every other thing which unto the charge and office of a captain-general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain-general of an army hath ever had the same.

Grant of a power to levy forces and make war, and do every thing that belongs to the office of a captain-general of an army.

Also, our will and pleasure is, and by this our charter, we do give unto the said now Lord Baltimore, his heirs and assigns, full power, liberty and authority, in case of rebellion, tumult or sedition, if any should happen (which God forbid) either upon the land, within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence by themselves, or their captains, deputies, or other officers, to be authorized under their seals for that purpose, (to whom we also for us, our heirs and successors, do give and grant by these presents, full power and authority) to exercise martial law against mutinous and seditious persons of those parts, such as shall refuse to submit themselves to his or their government, or shall refuse to serve in the wars, or shall fly to the enemy, or forsake their ensigns, or be loiterers or stragglers, or otherwise however offending against the law, custom, and discipline military, as freely and in as ample manner and form as any captain-general of an army, by virtue of his office, might, or hath accustomed to use the same.

and of a power to suppress rebellions, and exercise martial law upon rebels and deserters.

Furthermore, *that the way to honours and dignities may not seem to be altogether precluded and shut up to men well-born, and such as shall prepare themselves unto this present plantation, and shall desire to deserve well of us and our kingdoms, both in peace and war, in so far distant and remote a country: Therefore we, for us, our heirs and successors, do give free and absolute power unto the said now Lord Baltimore, his heirs and assigns, to confer favours, rewards and honours, upon such inhabitants, within the province aforesaid, as shall deserve the same, and to invest them with what titles and dignities soever as he shall think fit (so as they be not such as are now used in England,) as likewise to erect and incorporate towns into boroughs, and boroughs into cities, with convenient privileges and immunities, according to the merit of the inhabitants, and fitness of the places; and to do all and every other thing or things, touching the premises, which to him or them shall*

Grant of a power to confer honours upon the inhabitants of the said province, with proper titles, being other than those used in England; and to erect and incorporate boroughs and cities, with peculiar privileges and immunities.

seem meet and requisite; albeit they be such as of their own nature might otherwise require a more special commandment and warrant than in these presents is expressed.

Liberty to export the produce of the said province into England or Ireland, and there to dispose of them;

or if they so think fit, within one year after they shall have unladed them in some English or Irish port, to export them again to any other country in amity with the crown of England.

Grant of a power to erect and constitute sea-ports and other places for lading and unlading goods and merchandizes.

Saving to the King's subjects residing in England and Ireland, the liberty of fishing and drying their fish, within the said province.

We will also, and by these presents, for us, our heirs and successors, do give and grant licence, by this our charter, unto the said now Lord Baltimore, his heirs and assigns, and to all the inhabitants and dwellers in the said province aforesaid, both present and to come, to import, unlade, by themselves or their servants, factors or assigns, all merchandizes and goods whatsoever, that shall arise of the fruits and commodities of the said province, either by land or sea, into any of the ports of us, our heirs and successors, in our kingdoms of England or Ireland, or otherwise to dispose of the said goods, in the said ports, and if need be, within one year next after the unlading of the same, to lade the said merchandizes and goods again, into the same or other ships, and to export the same into any other countries, either of our dominion or foreign, (being in amity with us, our heirs and successors.) Provided always, that they pay such customs, impositions, subsidies and duties for the same, to us, our heirs and successors, as the rest of our subjects of our kingdom of England, for the time being, shall be bound to pay; beyond which, we will not that the inhabitants of the aforesaid province of Maryland shall be any way charged.

And furthermore, of our more ample and special grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said now Lord Baltimore, his heirs and assigns, full and absolute power and authority to make, erect, and constitute, within the said province of Maryland, and the isles and islets aforesaid, such and so many sea-ports, harbours, creeks, and other places, for discharging and unlading of goods and merchandizes out of the ships, boats and other vessels, and lading them in such and so many places, and with such rights, jurisdictions, and liberties, and privileges unto the said ports belonging, as to him or them shall seem most expedient; and that all and singular the ships, boats and other vessels, which shall come for merchandize and trade into the said province, or out of the same shall depart, shall be laden or unladen only at such ports as shall be so erected and constituted by the said now Lord Baltimore, his heirs or assigns; any use, custom, or other things to the contrary notwithstanding: saving always unto us, our heirs and successors, and to all the subjects (of our kingdoms of England and Ireland) of us, our heirs and successors, free liberty of fishing for sea fish, as well in the sea, bays, inlets, and navigable rivers, as in the harbours, bays, and creeks of the province aforesaid, and the privileges of salting and drying their fish on the shore of the said province, and for the same cause, to cut and take under-wood or twigs there growing, and to build cottages and sheds necessary in this behalf, as they heretofore have, or might reasonably have used; which liberties and privileges, nevertheless, the subjects aforesaid of us, our heirs and successors, shall enjoy without any notable damage, or injury to be done to the said now Lord Baltimore, his heirs or assigns, or to the dwellers and inhabitants of

the said province, in the ports, creeks, and shores aforesaid, and especially in the woods and copses growing within the said province. And if any shall do any such damage or injury, he shall incur the heavy displeasure of us, our heirs and successors, the punishment of the laws, and shall moreover make satisfaction.

We do furthermore will, appoint and ordain, and by these presents, for us, our heirs and successors, we do grant unto the said now Lord Baltimore, his heirs and assigns, that he the said Lord Baltimore, his heirs and assigns, may from time to time, for ever, have and enjoy the customs and subsidies in the ports, harbours, and other creeks and places aforesaid, within the province aforesaid, payable or due for merchandizes and wares there to be laded and unladed; the said customs and subsidies to be reasonably assessed (upon any occasion) by themselves and the people there, as aforesaid, to whom we give power, by these presents, for us, our heirs and successors, upon just cause, and in a due proportion, to assess and impose the same.

Grant of a power to receive and enjoy such customs and port-duties as shall be imposed by them and the assembly of the province.

And further, of our special grace, and of our certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant, unto the said now Lord Baltimore, his heirs and assigns, full and absolute power, licence, and authority, that he the said now Lord Baltimore, his heirs and assigns, from time to time hereafter, for ever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeoffe of the premises, so many and such part or parcels to him or them that shall be willing to purchase the same, as they shall think fit; to have and to hold to them the said person or persons willing to take or purchase the same, their heirs and assigns, in fee simple, or in fee tail, or for the term of life or lives, or years, to be held of the said now Lord Baltimore, his heirs and assigns, by such services, customs, and rents, as shall seem fit to the said now Lord Baltimore, his heirs and assigns, and not immediately of us, our heirs or successors: And to the same person or persons, and to all and every of them, we do give and grant, by these presents, for us, our heirs and successors, licence, authority and power, that such person or persons may take the premises, or any parcel thereof, of the said now Lord Baltimore, his heirs or assigns, and the same hold to themselves, their heirs or assigns, (in what estate of inheritance soever, in fee simple, or in fee tail, or otherwise, as to them and the now Lord Baltimore, his heirs and assigns, shall seem expedient;) the statute made in the parliament of Edward, son of King Henry, late King of England, our predecessor, commonly called the statute 'Quia emptores terrarum,' lately published in our kingdom of England, or any other statute, act, ordinance, use, law or custom, or any other thing, cause or matter thereupon heretofore had, done, published, ordained or provided to the contrary, in any wise notwithstanding.

Grant of a power to grant lands in inheritance, to be holden of themselves and their heirs, notwithstanding the statute Quia emptores terrarum.

And by these presents we give and grant licence unto the said now Lord Baltimore and his heirs, to erect any parcels of land within the province aforesaid into manors, in every the said manors to have and to hold a court of Barou, with all things

Power to erect manors.

whatsoever which to a court Baron do belong, and to have and to hold view of frank pledge (for the conservation of the peace, and the better government of those parts) by themselves or their stewards, or by the lords, for the time being, of other manors to be deputed, when they shall be erected, and in the same to use all things belonging to view of frankpledge.

No taxes shall be imposed by the Kings of England upon the inhabitants of this province.

And further our pleasure is, and by these presents, for us, our heirs and successors, we do covenant and grant to and with the said now Lord Baltimore, and his heirs and assigns, that we, our heirs and successors, shall at no time hereafter set or make, or cause to set any imposition, custom, or other taxation, rate, or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid province, for their lands, tenements, goods, or chattels within the said province, or in or upon any goods or merchandize within the said province, or to be laden or unladen within the ports or harbours of the said province. And our pleasure is, and for us, our heirs and successors, we charge and command, that this our declaration shall henceforward, from time to time, be received and allowed in all our courts, and before all the judges of us, our heirs and successors for a sufficient and lawful discharge, payment and acquittance; commanding all and singular our officers and ministers of us, our heirs and successors, and enjoining them, upon pain of our high displeasure, that they do not presume, at any time, to attempt any thing to the contrary of the premises, or that they do in any sort withstand the same; but that they be at all times aiding and assisting, as fitting, unto the said now Lord Baltimore, and his heirs, and to the inhabitants and merchants of Maryland aforesaid, their servants, ministers, factors, and assigns, in the full use and fruition of the benefit of this our charter.

This province shall not be a part of any other colony, but shall be a separate province, subject to the crown of England, and depending on it.

And further our pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said now Lord Baltimore, his heirs, and assigns, and to the tenants and inhabitants of the said province of Maryland, both present and to come, and to every of them, that the said province, tenants, and inhabitants of the said colony or country, shall not from henceforth be held or reputed as a member, or as part of the land of Virginia, or of any other colony whatsoever, now transported, or hereafter to be transported; nor shall be depending on, or subject to their government in any thing, from whom we do separate that and them. And our pleasure is, by these presents, that they be separated, and that they be subject immediately to our crown of England, as depending thereof for ever.

This charter shall always be construed in favour of the grantees.

And if perchance hereafter it should happen any doubts or questions should arise concerning the true sense and understanding of any word, clause, or sentence contained in this our present charter, we will, ordain and command, that at all times, and in all things, such interpretations be made thereof and allowed, in any of our courts whatsoever, as shall be adjudged most advantageous and favourable unto the said now Lord Baltimore, his heirs, and assigns; provided always, that no interpretation be admitted thereof, by which God's holy and truly Christian religion, or the

allegiance due unto us, our heirs and successors, may suffer any prejudice or diminution ; although express mention be not made in these presents of the true yearly value of certainty of the premises, or of any part thereof, or of other gifts and grants made by us, our progenitors or predecessors, unto the said now Lord Baltimore, or any statute, act, ordinance, provision, proclamation, or restraint heretofore had, made, published, ordained, or provided, or any other thing, cause, or matter whatsoever to the contrary thereof, in any wise notwithstanding. In witness, &c. Witness Ourself at Westminster, the twenty-eighth day of June, A.D. 1632, in the eighth year of our reign.

By Writ of Privy Seal.

THE CAROLINAS.

AFTER the unsuccessful attempts of the Spaniards and French to form settlements in this part of America, Monk, Duke of Albemarle, Clarendon, and others, obtained a patent for the purpose from Charles the Second, on the 24th of March, 1663, which is said to have been copied from the Charter to Maryland. Under this patent they proceeded to colonize, and two years later obtained a second Charter, conferring upon them additional territory. The Proprietaries were thereby liberally endowed with extensive privileges at the expense of the prerogatives of the Crown, and under these, in the year 1669, they subscribed that singular and notable instrument which was termed '*The Fundamental Constitutions of Carolina.*' These constitutions, which were the composition of the famous John Locke, superintended by Shaftesbury, might have aptly come from one of the pigeon-holes in the Abbé Sieyès' noted repository. Never, perhaps, was a scheme devised, more ingenious, explicit, elaborate, and absurd. I take a *resumé* of a portion of them from Grahame. Thus, 'it was appointed that the eldest of the Proprietaries, of whom there were eight, should be Palatine of the Province during his life ; and that this dignity, in every vacancy, should devolve on the eldest of the surviving Proprietaries. Seven other of the chief offices of state—namely, the offices of admiral, chamberlain, chancellor, constable, chief justice, high steward, and treasurer—were appropriated exclusively to the other seven Proprietaries ; and the duties of those functionaries, as well as of the Palatine, might be executed by deputies residing within the province. The duties were specified with great exactness ; as, for instance, those pertaining to the chamberlain's court, which had the care of 'all ceremonies, precedence, heraldry, and pedigrees,' and also 'power to regulate all fashions, habits, badges, games, and sports.' Corresponding to these offices there were to be (besides the ordinary courts of every county) eight

supreme courts, to each of which was annexed a college of twelve assistants. The Palatine was to preside in the Palatine's court, wherein he and three others of the Proprietaries formed a quorum of functionaries; and this court represented the King, ratified or negatived the enactments of the legislature, and, in general, was invested with the administration of all the powers conferred by the Royal Charter, except in so far as limited by collateral provisions of the fundamental constitutions. By a complicated framework of *counties, seignories, baronies, precincts*, and *colonies*, the whole land of the Province was divided into five equal portions, one of which was assigned to the Proprietaries, another to the nobility, and the remaining three were left to the people. Two classes of hereditary nobility, with possessions proportioned to their respective dignities, and for ever unalienable and indivisible, were to be created by the Proprietaries under the title of *landgraves* and *caciques*; and these, together with the deputies of the Proprietaries and Representatives chosen by the freemen, constituted the parliament of the Province, which was appointed to be biennially convoked, and when assembled, to form one deliberative body, and occupy the same chamber. No matter or measure could be proposed or discussed in the parliament that had not been previously considered and approved by the Grand Council of the Province; a body resembling the *Lords of the Articles*, in the ancient constitution of Scotland, and composed almost exclusively of the Proprietaries' officers and the nobility.' And in this way the articles proceeded illustrating the extravagancies of which the wisest may be capable when they attempt to provide paper constitutions on any other than a simple basis for those whose actual condition they are ignorant of. It is only necessary to add, as an exemplification of their working, that one of the earliest laws which was framed under their provisions was an ordinance that no person should be permitted to leave the colony. The ultimate and inevitable conclusion was this, that the Proprietaries, in the year 1693, were obliged to enact the following resolution: 'That, as the people have declared they would rather be governed by the powers granted by the Charter, without regard to the fundamental constitutions, it would be for their quiet, and the protection of the well-disposed, to *grant their request*.' This naïve admission is an admirable commentary on the last article of the famous fundamentals, which declared that they 'should be the sacred and unalterable form and rule of government of Carolina for ever.'

PENNSYLVANIA AND DELAWARE.

THE famous Charter of Pennsylvania was granted to Penn in March, 1681. It was framed, in some of its most important provisions, on the model of that which had been granted to Lord

Baltimore. It contains, however, some peculiar clauses, of which, according to Grahame, the political object and meaning was this: 'The cautious stipulations for guarding and ascertaining the British ascendancy, by which this Charter was distinguished from all preceding Patents, were manifestly the offspring of the disputes in which the Royal Court had been for some time engaged with the Colony of Massachusetts. The Provincial Government of Massachusetts had deemed the Acts of navigation inoperative within its jurisdiction, till they were legalized by its own ordinance. But the immediate and uninterrupted observance of them in Pennsylvania was enforced by the stipulated penalty of the forfeiture of the Charter. Laws had been passed in Massachusetts for a domestic coinage of money, and other objects, which were deemed inconsistent with the prerogative of the sovereign state. For the prevention of similar abuse, or, at least, the correction of it, before inveterate prevalence could have time to create habits of independence, it was required that all laws of the new province should be regularly transmitted to England, for the royal approbation or dissent. To obviate the difficulty that had been experienced by the English government in conducting its disputes with the people of Massachusetts, who could never be induced to accredit an agent at the Court, without much reluctance and long delay, it was *required* that a standing agent for Pennsylvania should reside in London, and be held responsible for the proceedings of his Colonial constituents. But the most remarkable provision, by which this Charter was distinguished from all the other American Patents, was that which expressly reserved a power of taxation to the British parliament.' The insertion of this clause was a foretaste of the spirit which afterwards cost us our fairest possessions, as the time arrived when its presumed safeguards betrayed the brightest ornament of the Crown. By requiring too much, we sacrificed all; as this may exemplify, for our lasting instruction.

Under this Charter the memorable '*Frame of the Government of the Province of Pennsylvania*' was prepared. To this was appended a code of laws which had been concerted between the Proprietary, William Penn, and divers of the planters, *before their departure from England*, and which were to be submitted for confirmation or modification to the *first provincial Assembly*. At the same time Penn obtained a grant of the Delaware territory from the Duke of York, and Pennsylvania and Delaware were accordingly united. The laws and constitution underwent several modifications, with the joint consent of the Proprietary and the colonists, and ultimately Delaware and Pennsylvania were separated. The original Charter I subjoin at length.

*Pensylvania Charter, granted by King CHARLES II. in the
Fourteenth Year of his Reign.*

Prima Pars Patentium de Anno Regni Regis CAROLI Secundi
Tricesimo Tertio.

Grant.

Premises
granted.

CHARLES the Second, &c. to all to whom these presents shall come, Greeting. Whereas our trusty and well-beloved subject William Penn, esquire, son and heir of Sir William Penn, deceased, out of commendable desire to enlarge our English empire, and promote such useful commodities as may be of benefit to us, and our dominions; as also to reduce the savage natives, by gentle and just manners, to the love of civil society and christian religion, hath humbly besought leave of us to transport an ample colony unto a certain country herein after described, in the parts of America not yet cultivated and planted; and hath likewise humbly besought our Royal Majesty to give, grant, and confirm all the said country, with certain privileges and jurisdictions requisite for the good government and safety of the said country and colony, to him and his heirs, for ever: Know ye therefore, That We, favouring the petition and good purpose of the said William Penn, and having regard to the memory and merits of his late father, in divers services, and particularly to his conduct, courage, and discretion, under our dearest brother James Duke of York, in that signal battle and victory fought and obtained against the Dutch fleet, commanded by the Heere Van Obdam, in the year one thousand six hundred and sixty-five; in consideration thereof, of our special grace, certain knowledge, and mere motion, have given and granted, and by this our present Charter, for us, our heirs, and successors, do give and grant, unto the said Sir William Penn, his heirs and assigns, all that tract or part of land in America, with all the islands therein contained, as the same is bounded on the East by Delawar river, from twelve miles distance northwards of Newcastle Town, unto the three and fortieth degree of northern latitude, if the said river doth extend so far northwards; but if the said river shall not extend so far northwards, then by the said river so far as it doth extend; and from the head of the said river the eastern bounds are to be determined by a meridian line, to be drawn from the head of the said river unto the said three and fortieth degree; the said lands to extend westward five degrees in longitude, to be computed from the said eastern bounds; and the said lands to be bounded on the north by the beginning of the three and fortieth degree of northern latitude, and on the south by a circle drawn at twelve miles distance from Newcastle northwards and westwards, unto the beginning of the fortieth degree of northern latitude; and then by a strait line westwards to the limits of longitude above-mentioned. We do also give and grant unto the said William Penn, his heirs and assigns, the free and undisturbed use, and continuance in, and passage into, and out of, all and singular ports, harbours, bays, waters, rivers, isles, and inlets belonging unto, or leading to and

from the country or islands aforesaid, and all the soil, lands, fields, woods, underwoods, mountains, hills, fens, isles, lakes, rivers, waters, rivulets, bays, and inlets, situate and being within or belonging unto the limits and bounds aforesaid; together with the fishing of all sorts of fish, whales, sturgeons, and all royal and other fishes in the sea, bays, inlets, waters, or rivers, within the premises, and the fish therein taken; and also all veins, mines, quarries, as well discovered as not discovered, of gold, silver, gems, and precious stones, and all other whatsoever, be it stones, metals, or of any other thing or matter whatsoever, found or to be found within the country, isles or limits aforesaid; and him the said William Penn, his heirs and assigns, we do by this our royal Charter, for us, our heirs, and successors, make, create, and constitute the true and absolute proprietaries of the said country aforesaid, and of all other the premises; saving always to us, our heirs and successors, the faith and allegiance of the said William Penn, his heirs and assigns, and of all other proprietaries, tenants, and inhabitants, that are, and shall be within the territories and precincts aforesaid; and saving also unto us, our heirs and successors, the sovereignty of the aforesaid country. To have, hold, possess, and enjoy the said tract of land, country, isles, inlets, and other the premises, unto the said William Penn, his heirs and assigns, to the only proper use and behoof of the said William Penn, his heirs and assigns for ever. To be holden of us, our heirs and successors, Kings of England, as of our Castle of Windsor, in our county of Berks, in free and common soccage, by fealty only, for all services, and not *in capite*, or by Knights service; yielding and paying therefore to us, our heirs and successors, two beaver-skins, to be delivered at our said castle of Windsor, on the first day of January on every year; and also the fifth part of all gold and silver ore, which shall from time to time happen to be found within the limits aforesaid, clear of all charges. And of our further grace, certain knowledge, and mere motion, we have thought fit to erect, and we do hereby erect the aforesaid country and island into a province and seignory, and do call it Pennsylvania, and so from henceforth we will have it called. And forasmuch as we have hereby made and ordained the aforesaid William Penn, his heirs and assigns, the true and absolute proprietaries of all the lands and dominions aforesaid: Know ye therefore, that we reposing special trust and confidence in the fidelity, wisdom, justice, and provident circumspection of the said William Penn, for us, our heirs and successors, do grant free, full, and absolute power, by virtue of these presents, to him and his heirs, and to his and their deputies and lieutenants, for the good and happy government of the said country, *to ordain, make, enact, and under his and their seals to publish any laws whatsoever, for the raising of money for the public use of the said province, and for any other end appertaining either to the public state, peace, or safety of the said country, or unto the private utility of particular persons, according to their best discretions, by and with the advice, assent, and approbation, of the freemen of the said country, or the greater part of them, or of their delegates or deputies, whom for the enacting of*

Saving of the allegiance of the grantee, his heirs, and assigns, and of the sovereignty of the country.

Habendum.

Tenendum.

Reservation of a fifth part of the gold and silver ore.

Erection of the country into a province by the name of Pennsylvania.

Grant to W. Penn and his heirs, of the power of making laws for raising money, and other purposes;

by the advice, and with the assent of the

freemen or their deputies : and of the power to execute the said laws. Grant of the power to appoint judges and officers necessary for the probate of wills, and granting of administrations ; and of the power to pardon crimes, excepting treason and murder, and in these to grant reprieves ; and of all other necessary judicial powers.

The laws made as above shall be binding upon all the inhabitants of the said province ;

provided they are consonant and not repugnant to the laws of England.

Reservation of an appeal to the King.

the said laws, when and as often as need shall require, we will, that the said William Penn, and his heirs, shall assemble in such sort and form, as to him and them shall seem best, and the said laws duly to execute unto and upon all people within the said country and limits thereof. And we do likewise give and grant unto the said William Penn, and his heirs, and to his and their deputies and lieutenants, full power and authority to appoint and establish any justices, magistrates, and officers whatsoever, for what causes soever, for the probates of wills, and for the granting of administrations, within the precincts aforesaid, and with what power soever, and in such form as to the said William Penn, or his heirs, shall seem most convenient ; also to remit, release, pardon, and abolish, whether before judgment or after, all crimes and offences whatsoever, committed within the said country, against the said laws, treason and wilful and malicious murder only excepted ; and in those cases to grant reprieves until our pleasure may be known therein ; and to do all and every other thing or things, which unto the complete establishment of justice unto courts and tribunals, forms of judicature, and manner of proceedings, do belong, although in these presents express mention be not made thereof ; and by judges, by them delegated, to award process, hold pleas, and determine, in all the said courts and tribunals, all actions, suits, and causes whatsoever, as well criminal as civil, personal, real, and mixt. Which laws, so, as aforesaid, to be published, our will and pleasure is, and so we injoin, require, and command, shall be most absolute and available in law ; and that all the liege people and subjects of us, our heirs and successors, do observe and keep the same inviolably, in those parts, so far as they concern them, under the pain therein expressed, or to be expressed ; provided nevertheless, that the said laws be consonant to reason, and be not repugnant or contrary, but, as near as conveniently may be, agreeable to the laws, statutes, and rights of this our kingdom of England ; and saving and reserving to us, our heirs and successors, the receiving, hearing, and determining of the appeal and appeals of all or any person or persons of, in, or belonging to the territories aforesaid, or touching any judgment to be there made or given. And forasmuch as in the government of so great a country, sudden accidents do often happen, whereunto it will be necessary to apply a remedy, before the freeholders of the said province, or their delegates or deputies, can be assembled to the making of laws ; neither will it be convenient, that instantly, upon every such emergent occasion, so great a multitude should be called together ; therefore, for the better government of the said country, we will and ordain, and by these presents, for us, our heirs and successors, do grant unto the said William Penn, and his heirs, by themselves, or by their magistrates and officers, in that behalf duly to be ordained, as aforesaid, to make and constitute fit and wholesome ordinances, from time to time, within the said country, to be kept and observed, as well for the preservation of the peace, as for the better government of the people there inhabiting, and publicly to notify the same, to all persons whom the same doth or may any way concern ; which or-

dinances, our will and pleasure is, shall be observed inviolably within the said province, under pains therein to be expressed; so as the said ordinances be consonant to reason, and be not repugnant nor contrary, but, so as may be agreeable to the laws of our kingdom of England; and so as the said ordinances be not extended in any sort, to bind, charge, or take away the right or interest of any person or persons, for or in their life, members, freehold, goods, or chattels. And our further will and pleasure is, That the laws for regulating and governing of property, within the said province, as well for the descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and chattels, and likewise as to felonies, shall be and continue the same as they shall be for the time being, by the general course of the law in our kingdom of England, until the said laws shall be altered by the said William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them. And to the end the said William Penn, or his heirs, or other the planters, owners, or inhabitants of the said province may not, at any time hereafter, by misconstruction of the powers aforesaid, through inadvertency or design, depart from that faith, and due allegiance which, by the laws of this our kingdom of England, they and all our subjects in our dominions and territories always owe unto us, our heirs and successors, by colour of any extent or largeness of powers hereby given, or pretended to be given, or by force or colour of any laws hereafter to be made in the said province, by virtue of any such powers; our further will and pleasure is, that a transcript or duplicate of all laws which shall be so as aforesaid made and published within the said province, shall, within five years after the making thereof be transmitted and delivered to the privy council, for the time being, of us, our heirs and successors: And if any of the said laws, within six months after that they shall be so transmitted and delivered, be declared by us, our heirs and successors, in our or their privy council, inconsistent with the sovereignty or lawful prerogative of us, our heirs or successors, or contrary to the faith or allegiance due by the legal government of this realm, from the said William Penn, or his heirs, or of the planters and inhabitants of the said province; and that thereupon any of the said laws shall be adjudged and declared to be void by us, our heirs and successors, under our or their privy seal; that then and from thenceforth such laws, concerning which such judgment and declaration shall be made, shall become void; otherwise the said laws so transmitted shall remain and stand in full force, according to the true intent and meaning thereof. Furthermore, that this new colony may the more happily increase by the multitude of people resorting thither, therefore we, for us, our heirs and successors, do give and grant, by these presents, power, licence, and liberty, unto all the liege people and subjects, both present and future, of us, our heirs and successors, (excepting those who shall be especially forbidden) to transport themselves and families unto the said country, with such convenient shipping, as, by the laws of this our kingdom of England, they ought

to use, and with fitting provisions, paying only the customs thereof due, and there to settle themselves, dwell and inhabit, and plant for the public and their own private advantage. And furthermore, that our subjects may be the rather encouraged to undertake this expedition with ready and chearful minds, know ye, That we, of our special grace, certain knowledge, and mere motion, do give and grant, by virtue of these presents, as well unto the said William Penn, and his heirs, as to all others, who shall, from time to time, repair unto the said country, with a purpose to inhabit there, or to trade with the natives of the said country, full licence to lade and freight in any ports whatsoever, of us, our heirs and successors, according to the laws made, or to be made, within our kingdom of England, and into the said country, by them, their servants, or assigns, to transport all and singular their goods, wares, and merchandize, as likewise all sorts of grain whatsoever, and all other things whatsoever necessary for food or cloathing, not prohibited by the laws and statutes of our kingdoms and dominions to be carried out of the said kingdoms, without any lett or molestation of us, our heirs and successors, or of any the heir of us, our heirs and successors; saving always to us, our heirs, and successors, the legal impositions, customs, and other duties and payments for the said wares, and merchandize, by any law or statute due, or to be due, to us, our heirs or successors. And we do further for us, our heirs and successors, give and grant unto the said William Penn, his heirs and assigns, free and absolute power to divide the said country and islands into towns, hundreds, and counties, and to erect and incorporate towns into boroughs, and boroughs into cities, and make and constitute fairs and markets therein, with all other convenient privileges and immunities, according to the merit of the inhabitants, and the fitness of the places, and to do all and every other thing and things touching the premises, which to him or them shall seem meet and requisite, albeit they be such as of their own nature might otherwise require a more especial commandment and warrant than in these presents is expressed. We will also, and by these presents, for us, our heirs and successors, we do give and grant licence by this our charter, unto the said William Penn, his heirs and assign, and to all the inhabitants and dwellers, in the province aforesaid, both present and to come, to import and unlade, by themselves, or their servants, factors or assigns, all merchandize or goods whatsoever, as shall arise of the fruits and commodities of the said province, either by land or sea, into any the ports of us, our heirs and successors, in our kingdom of England, and not into any other country whatsoever; and we give him full power to dispose of the said goods in the said ports, and if it need be, within one year next after the unlading of the same, to lade the said merchandizes and goods again into the same or other ships, and to export the same into any other countries either of our dominions or foreign, according to law: provided always, that they pay such customs and impositions, subsidies and duties, for the same, to us, our heirs and successors, as the rest of our subjects of our kingdom of England for the time being,

Grant of a licence to the inhabitants of this province, to import goods from thence into England, but into no other country:

and within a year after they have been unladen in an English port, to export the same into any other country.

shall be bound to pay; and do observe the acts of navigation, and other laws in that behalf made. And furthermore, of our more ample and special grace, certain knowledge, and mere motion, we do, for us, our heirs and successors, grant unto the said William Penn, his heirs and assigns, full and absolute power and authority to make, erect, and constitute, within the said province, and the isles and islets aforesaid, such and so many seaports, harbours, creeks, havens, keys, and other places, for discharging and unloading of goods and merchandizes out of the ships, boats, and other vessels, and lading them in such and so many places, and with such rights, jurisdictions, and liberties, and privileges unto the said ports belonging, as to him or them shall seem most expedient; and that all and singular the ships, boats, and other vessels, which shall come for merchandize and trade unto the said province, or out of the same shall depart, shall be laden or unladen only at such ports as shall be erected and constituted by the said William Penn, his heirs or assigns; any use, custom, or other things to the contrary notwithstanding: provided that the said William Penn, and his heirs, and the lieutenants and governors for the time being, shall admit and receive, in and about all such ports, havens, creeks, and keys, all officers and their deputies, who shall from time to time be appointed for that purpose, by the farmers or commissioners of our customs for the time being. And we do further appoint and ordain, and by these presents, for us, our heirs and successors, we do grant unto the said William Penn, his heirs and assigns, that he the said William Penn, his heirs and assigns, may from time to time, for ever, have and enjoy the customs and subsidies in the ports, harbours, and other creeks and places aforesaid, within the province aforesaid, payable or due for merchandizes and wares there to be laded and unladed; the said customs and subsidies to be reasonably assessed (upon any occasion) by themselves and the people there, as aforesaid, to be assembled; to whom we give power, by these presents, for us, our heirs and successors, upon just cause, and in a due proportion, to assess and impose the same; saving unto us, our heirs and successors, such impositions and customs, as by act of parliament are and shall be appointed. And it is our further will and pleasure, That the said William Penn, his heirs and assigns, shall, from time to time, constitute and appoint an attorney or agent, to reside in or near our city of London, who shall make known the place where he shall dwell, or may be found, unto the clerks of our privy council for the time being, or one of them, and shall be ready to appear in any of our courts at Westminster, to answer for any misdemeanors that shall be committed, or by any wilful default or neglect permitted by the said William Penn, his heirs or assigns, against our laws of trade and navigation; and after it shall be ascertained in any of our said courts what damages we, or our heirs or successors, shall have sustained by such default or neglect, the said William Penn, his heirs and assigns, shall pay the same within one year after such taxation and demand thereof, from such attorney; or in case there shall be no such attorney, within the space of one year; or such attorney shall not make

Grant to W. Penn and his heirs and assigns, of a power to erect and constitute seaports and keys for lading and unlading goods and merchandizes:

and of a power to receive and enjoy such customs and port-duties as shall be imposed by them and the assembly of the province.

Reservation of such customs as shall be imposed by act of parliament.

The grantee and his heirs and assigns shall keep an attorney or agent at London, to answer for any misdemeanors committed by them.

They shall have no correspondence with foreign states that are at war with England

Grant of the power to levy forces and make war, and do everything belonging to the office of a captain-general of an army.*

Power to grant lands in inheritance, to hold of themselves.

payment of such damages within the space of one year, and answer such other forfeitures and penalties within the said time, as by the acts of parliament in England are or shall be provided, according to the true intent and meaning of these presents ; then it shall be lawful for us, our heirs and successors, to seize and resume the government of the said province or country, and the same to retain until payment shall be made thereof ; but notwithstanding any such seizure or resumption of the government, nothing concerning the propriety or ownership of any lands, tenements, or other hereditaments, or goods, or chattels, of any of the adventurers, planters, or owners, other than the respective offenders there, shall be in any way affected or molested thereby. Provided always, and our will and pleasure is, that neither the said William Penn, nor his heirs, nor any other the inhabitants of the said province, shall at any time hereafter have or maintain any correspondence with any other King, Prince or State, or with any of their subjects, who shall then be in war against us, our heirs or successors ; nor shall the said William Penn, or his heirs, or any other the inhabitants of the said province, make war, or do any act of hostility against any other King, Prince or State, or any of their subjects, who shall then be in league or amity with us, our heirs, or successors. And because in so remote a country, and situate near so many barbarous nations, the incursions as well of the savages themselves, as of other enemies, pirates, and robbers, may probably be feared, therefore we have given, and for us, our heirs and successors, do give power by these presents, unto the said William Penn, his heirs and assigns, by themselves, or their captains, or other their officers, to levy, muster, and train all sorts of men, of what condition, or wheresoever born, in the said province of Pennsylvania, for the time being, and to make war, and pursue the enemies and robbers aforesaid, as well by sea, as by land, yea, even without the limits of the said province, and (by God's assistance) to vanquish and take them ; and being taken, to put them to death, by the law of war, or to save them, at their pleasure ; and to do all and every other thing, which unto the charge and office of a captain-general of an army belongeth, or hath accustomed to belong, as fully and freely as any captain-general of an army hath ever had the same. And furthermore, of our special grace, and of our certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto the said William Penn, his heirs and assigns, full and absolute power, licence, and authority, that he the said William Penn, his heirs and assigns, from time to time hereafter, for ever, at his and their will and pleasure, may assign, alien, grant, demise, or enfeof of the premises, so many and such part or parcels to him or them that shall be willing to purchase the same, as they shall think fit ; to have and to hold to them the said person or persons willing to take or

* This may be thought an extraordinary power, considering the person in whom it was vested ; but the difficulty of reconciling religious scruples with the administration of political power, was afterwards experienced. See the circumstances of 1697, as detailed in the second volume of Grahame.

purchase, their heirs and assigns, in fee simple, or in fee tail, or for the term of life or lives, or years, to be held of the said William Penn, his heirs and assigns, as of the seignory of Windsor, by such services, customs, and rents, as shall seem fit to the said William Penn, his heirs and assigns, and not immediately of us, our heirs and successors : And to the same person or persons, and to all and every of them, we do give and grant, by these presents for us, our heirs and successors, licence, authority and power that such person or persons may take the premises, or any parcel thereof, of the said William Penn, his heirs, or assigns, and the same hold to themselves, their heirs or assigns, in what estate of inheritance soever, in fee simple, or in fee tail, or otherwise, as to him the said William Penn, his heirs and assigns, shall seem expedient ; the statute made in the parliament of Edward, son of King Henry, late King of England, our predecessor, commonly called the statute *Quia emptores terrarum*, lately published in our kingdom of England, in any wise notwithstanding. And by these presents, we give and grant licence unto the said William Penn, and his heirs, likewise to all and every such person and persons, to whom the said William Penn, or his heirs, shall, at any time hereafter, grant any estate of inheritance as aforesaid, to erect any parcels of land within the province aforesaid, into manors, by and with the licence to be first had and obtained for that purpose, under the hand and seal of the said William Penn, or his heirs, and in every of the said manors to have and to hold a court of Baron, with all things whatsoever which to a court Baron do belong, and to have and to hold view of frank pledge (for the conservation of the peace, and the better government of those parts) by themselves or their stewards, or by the lords, for the time being, of other manors to be deputed when they shall be erected, and in the same to use all things belonging to view of frank pledge : And we do further grant licence and authority, that every such person and persons who shall erect any such manor or manors as aforesaid, shall or may grant all or any part of his said lands to any person or persons in fee simple or any other estate of inheritance, to be held of the said manors respectively, so as no further tenures shall be created ; but that upon all further and other alienations thereafter to be made, the said lands so aliened shall be held of the same lord, and his heirs, of whom the alienor did then before hold, and by the like services, which were before due and accustomed. And further our pleasure is, and by these presents, for us, our heirs and successors, we do covenant and grant to and with the said William Penn, and his heirs and assigns, that we, our heirs and successors, shall at no time hereafter set or make, or cause to set any imposition, custom, or other taxation, rate, or contribution whatsoever, in and upon the dwellers and inhabitants of the aforesaid province, for their lands, tenements, goods, or chattels within the said province, or in and upon any goods and merchandize within the said province, or to be laden or unladen within the ports or harbours of the said province, unless the same be with the consent of the proprietary, or chief governor, and assembly, or by act of parliament in England. And our pleasure

Power of
erecting
manors.

No taxes
shall be laid
upon the in-
habitants,
but by act of
assembly or
act of par-
liament.

If twenty or more persons desire it, preachers approved by the Bishop of London may be sent to them.

is, and for us, our heirs, and successors, we charge and command, that this our declaration shall from henceforward, from time to time be received and allowed in all our courts, and before all the judges of us, our heirs and successors, for a sufficient discharge, payment and acquittance, commanding all and singular the officers and ministers of us, our heirs and successors, and enjoining them, upon pain of our high displeasure, that they do not presume, at any time, to attempt any thing to the contrary of the premises, or that they do in any sort withstand the same; but that they be at all times aiding and assisting, as fitting, unto the said William Penn, and his heirs, and to the inhabitants and merchants of the said province aforesaid, their servants, ministers, factors, and assigns, in the full use and fruition of the benefit of this our Charter. And our further pleasure is, and we do hereby, for us, our heirs and successors, charge and require, that if any of the inhabitants of the said province (to the number of twenty) shall, at any time hereafter, be desirous, and shall by any writing, or by any person deputed by them, signify such their desire to the Bishop of London, for the time being, that any preacher or preachers, to be approved of by the said Bishop, may be sent unto them for their instruction, that then such preacher or preachers shall and may be and reside within the said province, without any denial or molestation whatsoever. And if perchance hereafter it shall happen, any doubts or questions should arise concerning the true sense and meaning of any word, clause, or sentence contained in this our present Charter, we will, ordain, and command, that at all times, and in all things, such interpretations be made thereof and allowed, in any of our courts whatsoever, as shall be adjudged most advantageous and favourable unto the said William Penn, his heirs and assigns; provided always, that no interpretation be admitted thereof, by which the allegiance due unto us, our heirs and successors, may suffer any prejudice or diminution; although express mention be not made in these presents of the true yearly value and certainty of the premises, or of any part thereof, or of other gifts and grants made by us, our progenitors or predecessors, unto the said William; or any statute, act, ordinance, provision, proclamation, or restraint heretofore had, made, published, ordained, or provided, or any other thing, cause, or matter whatsoever, to the contrary thereof, in any wise notwithstanding. In witness, &c. Witness Ourselves at Westminster, the eight and twentieth day of February.

Feb. 28,
1661-2.

By Writ of Privy Seal.

NEW YORK AND NEW JERSEY.

NEW YORK, originally a Dutch Colony, was surrendered to the English in 1664, and its government assumed, on behalf of the Duke of York, the Proprietary, who had previously obtained a Patent from Charles II. It was re-conquered by the Dutch, but restored to him in 1674, when a new grant was obtained, as the validity of the former one was deemed questionable. By this he was authorized to administer justice according to the laws of England, with an appeal to the King in Council. No general Assembly was called for several years; and the people having become clamorous for the privileges enjoyed by other colonists, the Governor was, in 1682, authorized to call an Assembly, which was empowered to make laws for the general regulation of the state, which, however, was of no force without the ratification of the Proprietary. Siding with the Prince of Orange, in 1688, from this era they were deemed entitled to all the privileges of British subjects inhabiting a dependent province of the state. But no Charter was subsequently granted to them by the Crown; and therefore they derived no peculiar privileges from that source. Henceforth its Governors were appointed by the Crown, but 'no effort was made,' says Mr. Justice Story, 'to conduct the administration without the aid of the representatives of the people in general Assembly.'

New Jersey, which was also a part of the territory originally granted to the Duke of York, was by him granted to Lord Berkeley and Sir George Carteret, in 1664. After going through various phases of a Proprietary government, under which it enjoyed practically very large powers of self-direction, and having had its due share of molestation from this country, in the shape of *quo warrantos*, it was ultimately surrendered into the hands of Queen Anne, in 1702, and the provinces into which it had been divided were re-united. From this time to the American Revolution it was governed without any Charter, under Royal Commissions; but 'the people,' says Story, 'always strenuously contended for the rights and privileges guaranteed to them by the former concessions, and many struggles occurred from time to time between their representatives and the royal Governors, on this subject.' See also the references to Smith's New Jersey, in Story's 'Constitution,' &c. vol. i. p. 108.

GEORGIA.

THE Colonization of Georgia, suggested principally for the relief of imprisoned debtors in England, and in which the Moravian Brethren co-operated, was commenced in the reign of George II. A Charter was granted in 1732, by which the territory was vested in certain Trustees, who were intrusted with limited powers for twenty-one years; at the expiration of which time a permanent form of government, corresponding with British law and usage, was to be established by the King or his successors. This Charter, chiefly interesting as an illustration of the greater chariness which now prevailed as to Colonial grants, was willingly surrendered as its expiration drew near. Subsequently a provincial constitution like that of Carolina, which superseded the collapse of Locke's paper fabric, was established, and a Governor appointed by the Crown.

*Georgia Charter, granted by King GEORGE II., in the
Fifth Year of his Reign.*

GEORGE the Second, by the grace of God, of Great Britain, France and Ireland, king, defender of the faith, &c., to all to whom these presents shall come, greeting. Whereas we are credibly informed, that many of our poor subjects are, through misfortunes, and want of employments, reduced to great necessities, insomuch as by their labour they are not able to provide a maintenance for themselves and families; and if they had means to defray their charge of passage, and the expences incident to new settlements, they would be glad to be settled in any of our provinces in America, where, by cultivating the lands at present waste and desolate, they might not only gain a comfortable subsistence for themselves and families, but also strengthen our colonies, and increase the trade, navigation and wealth of these our realms: and whereas our provinces in North America have been frequently ravaged by Indian enemies, more especially that of South Carolina, which in the late war, by the neighbouring savages, was laid waste with fire and sword, and great numbers of the English inhabitants miserably massacred; and our loving subjects, who now inhabit there, by reason of the smallness of their numbers, will, in case of any new war, be exposed to the like calamities, inasmuch as their whole southern frontier continueth unsettled, and lieth open to the said savages: and whereas we think it highly becoming our crown and royal dignity to protect all our loving subjects, be they never so distant from us, to extend our fatherly compassion even to the meanest and most unfortunate of our people, and to relieve the wants of our above-mentioned poor subjects; and that it will be highly conducive for accomplishing those ends, that a regular colony of the said poor

people be settled and established in the southern frontiers of Carolina: and whereas we have been well assured, that if we would be most graciously pleased to erect and settle a corporation for the receiving, managing, and disposing of the contributions of our loving subjects, divers persons would be induced to contribute to the uses and purposes aforesaid: Know ye, therefore, that we have, for the considerations aforesaid, and for the better and more orderly carrying on the said good purposes, of our special grace, certain knowledge, and mere motion, willed, ordained, constituted and appointed, and by these presents, for us, our heirs and successors, do will, ordain, constitute, declare and grant, That our right trusty and well-beloved John Lord Viscount Percival, of our kingdom of Ireland, our trusty and well-beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert More, Robert Hucks, Roger Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Balitha, esquires; Stephen Hales, master of arts, John Burton, bachelor of divinity, Richard Bundy, master of arts, Arthur Badford, master of arts, Samuel Smith, master of arts, Adam Anderson, and Thomas Coram, gentlemen, and such other persons as shall be elected in the manner hereafter mentioned, and their successors, to be elected in manner as herein after is directed, be, and shall be one body politic and corporate, in deed and in name, by the name of The Trustees for establishing the colony of Georgia in America; and them and their successors, by the same name, we do, by these presents, for us, our heirs and successors, really and fully make, ordain, constitute and declare to be one body politic and corporate, in deed and in name, for ever; and that by the same name they, and their successors, shall and may have perpetual succession; and that they, and their successors, by that name, shall and may for ever hereafter be persons able and capable in the law to purchase, have, take, receive, and enjoy to them, and their successors, any manors, messuages, lands, tenements, rents, advowsons, liberties, privileges, jurisdictions, franchises, and other hereditaments whatsoever, lying and being in part of Great Britain, of whatsoever nature, kind, and quality they be, in fee and in perpetuity, not exceeding the yearly value of one thousand pounds beyond reprises, also estates for lives and for years, and all other manner of goods, chattels, and things whatsoever, of what name, nature, quality, or value so ever they be, for the better settling, supporting, and maintaining the said colony, and other uses aforesaid; and to give, grant, let, and demise the said manors, messuages, lands, tenements, hereditaments, goods, chattels, and things whatsoever aforesaid, by lease or leases, for term of years, in possession at the time of granting thereof, and not in reversion, not exceeding the term of one-and-thirty years from the time of granting thereof, on which, in case no fine be taken, shall be reserved the full value, and, in case a fine be taken, shall be reserved at least a moiety of the full value, that the same shall reasonably and *bona fide* be worth at the time of such demise; and that they, and their successors, by the name aforesaid, shall and may, for

Incorporation of divers persons into one body politic and corporate.

Name of the corporation.

Perpetual succession.

Capacity to purchase lands in Great Britain, to the value of 1000*l.* per annum.

Power to make leases of the same for thirty-one years.

Power to purchase lands in America in any quantity.

Capacity to
sue and be
sued.

A common
seal.

ever hereafter, be persons able and capable in the law to purchase, have, take, receive, and enjoy, to them and their successors, any lands, territories, possessions, tenements, jurisdictions, franchises, and other hereditaments whatsoever, lying and being in America, of what quantity, quality, or value soever they be, for the better settling, supporting, and maintaining the said colony; and that by the name aforesaid, they shall and may be able to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places whatsoever, and before whatsoever judges, justices, or other officers, of us, our heirs and successors, in all and singular actions, complaints, pleas, matters, suits, and demands, of what kind, nature, or quality soever they be; and to act and do all other matters and things in as ample manner and form as any other our liege subjects of this our realm of Great Britain; and that they, and their successors, for ever hereafter, shall and may have a common seal, to serve for the causes and business of them, and their successors; and that it shall and may be lawful for them, and their successors, to change, break, alter, and make new, the said seal from time to time, and at their pleasure, as they shall think best. And we do further grant, for us, our heirs and successors, that the said corporation, and the common council of the said corporation herein after by us appointed, may, from time to time, and at all times, meet about their affairs, when and where they please, and transact and carry on the business of the said corporation. And for the better execution of the purposes aforesaid, we do, by these presents, for us, our heirs and successors, give and grant to the said corporation, and their successors, that they, and their successors, for ever may, upon the third Thursday in the month of March, yearly meet at some convenient place, to be appointed by the said corporation, or the major part of them who shall be present at any meeting of the said corporation to be had for the appointing of the said place; and that they, or two thirds of such of them that shall be present, shall, at such yearly meeting, and at no other meeting of the said corporation, between the hours of ten in the morning and four in the afternoon of the same day, chuse and elect such person or persons to be members of the said corporation as they shall think beneficial to the good designs of the said corporation. And our further will and pleasure is, that if it shall happen that any of the persons herein after by us appointed as the common council of the said corporation, or any other persons to be elected and admitted members of the said common council in the manner herein after directed, shall die, or shall, by writing under his and their hands respectively, resign his or their office or offices of common council-man, or common council-men, the said corporation, or the major part of such of them as shall be present, and may at such meeting, on the said third Thursday in March, yearly, in manner as aforesaid, next after such death or resignation, and at no other meeting of the said corporation, elect and chuse one or more person or persons, being members of the said corporation, into the room or place of such person, or persons, which shall be so dead or so resigning, as to them shall seem meet. And our will and pleasure

is, that all and every the person or persons which shall, from time to time, hereafter be elected common council-men of the said corporation as aforesaid, do and shall, before he or they act as common council-men of the said corporation, take an oath for the faithful and due execution of their office; which oath the president of the said corporation, for the time being, is hereby authorized and required to administer to such person or persons so elected as aforesaid. And our will and pleasure is, that the first president of the said corporation shall be our trusty and well-beloved the said John Lord Viscount Percival, and that the said president shall, within thirty days after the passing of this charter, cause summons to be issued to the several members of the said corporation herein particularly named, to meet at such time and place as he should appoint, to consult about and transact the business of the said corporation. And our will and pleasure is, and we do by these presents, for us, our heirs and successors, grant, ordain, and direct, that the common council of the said corporation shall consist of fifteen in number: and we do, by these presents, nominate, constitute, and appoint, our right trusty and well-beloved John Lord Viscount Percival, our trusty and well-beloved Edward Digby, George Carpenter, James Oglethorpe, George Heathcote, Thomas Tower, Robert More, Robert Hucks, Rogers Holland, William Sloper, Francis Eyles, John Laroche, James Vernon, William Belitha, esquires, and Stephen Hales, master of arts, to be the common council of the said corporation, to continue in their said offices during their good behaviour. And whereas it is our royal intention, that the members of the said corporation shall be increased by election as soon as conveniently may be, to a greater number than is hereby nominated, our further will and pleasure is, and we do hereby for us, our heirs and successors, ordain, and direct, that from the time of such increase of the members of the said corporation, the number of the said common council shall be increased to twenty-four. And that at the same assembly at which such additional members of the said corporation shall be chosen, there shall likewise be elected in the manner herein before directed for the election of common council-men, nine persons to be of the said common council, and to make up the number thereof twenty-four. And our further will and pleasure is, that our trusty and well-beloved the said Sir Edward Digby, esquire, shall be the first chairman of the common council of the said corporation; and that the said Lord Viscount Percival shall be and continue president of the said corporation; that the said Edward Digby shall be and continue chairman of the said common council of the said corporation respectively, until the meeting which shall be had next and immediately after the first meeting of the said corporation, or of the common council of the said corporation respectively, and no longer; at which said second meeting, and at every other subsequent and future meeting of the said corporation, or of the common-council of the said corporation respectively, in order to preserve an indifferent rotation of the several offices of president of the corporation, and of chairman of the common-council of the said corporation, we do direct and

The first
President.

The com-
mon coun-
cil.

ordain, that all and every the person or persons, members of the said common-council for the time being, and no others, being present at such meetings, shall severally and respectively, in their turns, preside at the meetings which shall from time to time be had and held, of the said corporation, or of the common-council of the said corporation respectively: And in case any doubt or question shall at any time arise, touching or concerning the turn or right of any member of the said common-council, to preside at any meeting of the said corporation, or of the common-council of the said corporation, the same shall be respectively determined by the major part of the said corporation, or of the common-council of the said corporation respectively, who shall be present at such meeting. Provided always, that no member of the said common-council, having served in the office of president of the said corporation, or of chairman of the common-council of the said corporation, shall be capable of being or of serving as president or chairman at any meeting of the said corporation, or of the common-council of the said corporation, next and immediately ensuing that in which he so served as president of the said corporation, or chairman of the common-council of the said corporation respectively, unless it shall so happen, that at any such meeting of the said corporation there shall not be any other member of the said common-council present. And our will and pleasure is, that at all and every the meetings of the said corporation, or of the common-council of the said corporation, the president or chairman for the time being shall have a voice, and shall vote and act as a member of the said corporation, or of the common-council of the said corporation, at such meeting; and in case of any equality of votes, the said president or chairman for the time being shall have and exercise a casting vote. And our further will and pleasure is, that no president of the said corporation, or chairman of the common-council of the said corporation, or member of the said common-council or corporation, by us by these presents appointed, or hereafter from time to time to be elected or appointed in manner as aforesaid, shall have, take or receive, directly or indirectly, any salary, fee, perquisite, benefit or profit, whatsoever, for or by reason of his or their serving the said corporation, or common-council of the said corporation, as president, chairman, or common-council-man, or as being a member of the said corporation. And our will and pleasure is, that the said herein before appointed president, chairman and common-council-men, before he and they act respectively as such, shall severally take an oath for the faithful and due execution of their trust, to be administered to the president by the chief baron of our court of exchequer for the time being, and by the president of the said corporation to the rest of the common-council, who are hereby authorized severally and respectively to administer the same. And our will and pleasure is, that all and every person and persons who shall have in his or their own name or names, or in the name or names of any person or persons in trust for him or them, or for his or their benefit, any office, place or employment of profit under the

said corporation, shall be incapable of being elected a member of the said corporation: And if any member of the said corporation, during such time as he shall continue a member thereof, shall in his own name or in the name of any person or persons in trust for him, or for his benefit, have, hold, exercise, accept, possess or enjoy any office, place or employment of profit under the common-council of the said corporation, such member shall, from the time of such having, holding, exercising, accepting, possessing and enjoying such office, place or employment of profit, cease to be a member of the said corporation. And we do for us, our heirs and successors, grant unto the said corporation, and their successors, that they, and their successors, or the major part of such of them as shall be present at any meeting of the said corporation, convened and assembled for that purpose, by proper and convenient notice thereof, shall have power, from time to time, and at all times hereafter, to authorize and appoint such persons as they shall think fit, to take subscriptions, and to gather and collect such monies as shall be by any person or persons contributed for the purposes aforesaid, and shall and may revoke and make void such authorities and appointments as often as they shall see cause so to do. And we do hereby for us, our heirs and successors, ordain and direct, that the said corporation shall every year lay an account in writing before the chancellor, or keeper, or commissioners for the custody of the great seal of Great Britain, of us, our heirs and successors, the chief justice of the court of king's bench, the master of the rolls, the chief justice of the court of common pleas, and the chief baron of the exchequer, of us, our heirs and successors, for the time being, or any two of them, of all monies or effects by them received or expended, for the carrying on the good purposes aforesaid. And we do hereby for us, our heirs and successors, give and grant unto the said corporation, and their successors, full power and authority to constitute, ordain and make such and so many by-laws, constitutions, orders and ordinances, as to them, or the greater part of them, at their general meeting for that purpose, shall seem meet, necessary and convenient for the well ordering and governing the said corporation; and the said by-laws, constitutions, orders and ordinances, or any of them, to alter and annul, as they, or the major part of them then present, shall see requisite; and in and by such by-laws, rules, orders and ordinances, to set, impose and inflict reasonable pains and penalties upon any offender or offenders who shall transgress, break or violate the said by-laws, constitutions, orders and ordinances, so made as aforesaid, and to mitigate the same, as they or the major part of them then present shall find cause; which said pains and penalties shall and may be levied, sued for, taken, retained and recovered by the said corporation, and their successors, or by their officers and servants, from time to time to be appointed for that purpose, by action of debt, or by any other lawful ways and means, to the use and behoof of the said corporation, and their successors; all and singular which by-laws, constitutions, orders and ordinances, so as aforesaid to be made, we will shall be duly observed and kept, under the pains and penalties therein to

Power of
making by-
laws.

be contained; so always as the said by-laws, constitutions, orders, and ordinances, pains and penalties from time to time to be made and imposed, be reasonable, and not contrary or repugnant to the laws and statutes of this our realm; and that such by-laws, constitutions and ordinances, pains and penalties from time to time to be made and imposed, and any repeal or alteration thereof, or of any of them, be likewise agreed to, be established and confirmed by the general meeting of the said corporation, to be held and kept next after the same shall be respectively made. And whereas the said corporation intend to settle a colony, and to make an habitation and plantation in that part of our province of South Carolina in America herein after described:

Grant of a large tract of land to the said corporation.

Know ye therefore, that we greatly desiring the happy success of the said corporation, for their further encouragement in accomplishing so excellent a work, have of our special grace, certain knowledge, and mere motion, given and granted, and by these presents, for us, our heirs, and successors, do give and grant, to the said corporation, and their successors, under the reservations, limitations, and declarations hereafter expressed, seven undivided parts (the whole into eight equal parts to be divided) of all those lands, countries, and territories, situate, lying, and being in that part of South Carolina, in America, which lies from the northern stream of a river there commonly called the Savannah, all along the sea-coast to the southward, unto the most southern stream of a certain other great water or river called the Alatomacha, and westward from the heads of the said rivers respectively in direct lines to the south seas, and all that space, circuit, and precinct of land lying within the said boundaries, with the islands in the sea, lying opposite to the eastern coast of the said islands; within twenty leagues of the same, which are not already inhabited, or settled by any authority derived from the crown of Great Britain, together with all the soils, grounds, havens, ports, gulphs and bays, mines, as well as royal mines of gold and silver, as other minerals, precious stones, quarries, woods, rivers, waters, fishings, as well royal fishings of whale and sturgeon as other fishings, pearls, commodities, jurisdictions, royalties, franchises, privileges, and pre-eminences, within the said territories, and the precincts thereof, and thereunto in any sort belonging or appertaining, and which we by our letters patent may or can grant, and in as ample manner and sort as we, or any of our royal progenitors, have hitherto granted to any company, body politic, or corporate, or to any adventurer or adventurers, undertaker or undertakers of any discoveries, plantations or traffic of, in or into any foreign parts whatsoever, and in as large and ample manner as if the same were herein particularly mentioned and expressed. To have, hold, possess and enjoy the said seven undivided parts (the whole into eight equal parts to be divided as aforesaid) of all and singular the said lands, countries and territories, with all and singular other the premises herein before by these presents granted or mentioned, or intended to be granted, to them the said corporation, and their successors for ever, for the

Habendum.

better support of the said colony. To be holden of us, our heirs Tenendum. and successors, as of our manor of Hampton Court, in our county of Middlesex, in fee and common soccage, and not in capite; yielding and paying therefore to us, our heirs and successors, Quit-rent. yearly for ever, the sum of four shillings for every hundred acres of the said lands which the said corporation shall grant, demise, plant or settle, the said payment not to commence, or be made, until ten years after such grant, demise, planting or settling, and to be answered and paid to us, our heirs and successors, in such manner, and in such species of money or notes as shall be current in payment by proclamation, from time to time, in our said province of South Carolina; all which lands, countries, territories and premises hereby granted or mentioned, or intended to be granted, we do by these presents make, erect and create one independent and separate province, by the name of Georgia; by which name we will the same henceforth to be called, and that all and every person and persons who shall at any time hereafter inhabit or reside within our said province, shall be and are hereby declared to be free, and shall not be subject to, or be bound to obey, any laws, orders, statutes or constitutions which have been heretofore made, ordered, or enacted, or which hereafter shall be made, ordered, or enacted, by, for, or as the laws, orders, statutes or constitutions by our said province of South Carolina (save and except only the command in chief of the militia of our said province of Georgia to our governor for the time being of South Carolina, in manner herein after declared); but shall be subject to and bound to obey such laws, orders, statutes and constitutions, as shall from time to time be made, ordered and enacted for the better government of the said province of Georgia, in the manner herein after directed. And we do hereby for us, our heirs and successors, ordain, will, and establish, that for and during the term of one-and-twenty years, to commence from the date of these our letters patent, the said corporation assembled for that purpose, shall and may form and prepare laws, statutes, and ordinances, fit and necessary for and concerning the government of the said colony, and not repugnant to the laws and statutes of England; and the same shall and may present under their common seal to us, our heirs and successors, in our or their privy-council, for our or their approbation or disallowance; and the said laws, statutes, and ordinances, being approved by us, our heirs and successors, in our or their privy-council, shall from thenceforth be in full force and virtue, within our said province of Georgia. And forasmuch as the good and prosperous success of the said colony cannot but chiefly depend, next under the blessing of God, and the support of our royal authority, upon the provident and good direction of the whole enterprize, and that it will be too great a burthen upon all the members of the said corporation to be convened so often as may be requisite to hold meetings for the settling, supporting, ordering, and maintaining such colony; therefore we do will, ordain, and establish, that the said common council, for the time being, of

Erection of the said lands hereby granted, into a province by the name of Georgia.

the said corporation, being assembled for that purpose, or the major part of them, shall, from time to time, and at all times, hereafter, have full power and authority to dispose of, expend, and apply all the monies and effects belonging to the said corporation, in such manner and ways, and in such expences as they shall think best to conduce to the carrying on and effecting the good purposes herein mentioned and intended; and also shall have full power, in the name and on the account of the said corporation, and with and under their common seal, to enter into any covenants and contracts for carrying on and effecting the purposes aforesaid. And our further will and pleasure is, that the said common-council for the time being, or the major part of such of the said common council which shall be present and assembled for that purpose, from time to time, and at all times hereafter, shall and may nominate, constitute, and appoint, a treasurer or treasurers, secretary or secretaries, and such other officers, ministers, and servants of the said corporation, as to them, or the major part of such of them as shall be present, shall seem proper or requisite for the good management of their affairs, and at their will and pleasure to displace, remove, and put out such treasurer or treasurers, secretary or secretaries, and all such other officers, ministers, or servants, as often as they shall think fit so to do, and others in the room, office, place, or stead of him or them so displaced, removed, or put out, to nominate, constitute, and appoint; and shall and may determine and appoint such reasonable salaries, perquisites, or other rewards, for the labour or services of such officers, servants and persons, as to the said common council shall seem meet; and all such officers shall, before they act in their respective offices, take an oath, to be to them administered by the chairman for the time being of the said common council of the said corporation, who is hereby authorized to administer the same, for the faithful and due execution of their respective offices and places. And our will and pleasure is, that all and every person and persons, who shall from time to time be chosen or appointed treasurer or treasurers, secretary or secretaries of the said corporation, in manner herein before directed, shall, during such time as they shall serve in the said offices respectively, be incapable of being a member of the said corporation. And we do further, of our special grace, certain knowledge, and mere motion, for us, our heirs and successors, grant by these presents to the said corporation, and their successors, that it shall be lawful for them, and their officers or agents, at all times hereafter, to transport and convey out of our realm of Great Britain, or any other our dominions, into the said province of Georgia, to be there settled, all such and so many of our loving subjects, or any foreigners that are willing to become our subjects, and live under our allegiance in the said colony, as shall willingly go to inhabit and reside there, with sufficient shipping, armour, weapons, ordnance, munition, powder, shot, victuals, and such merchandize or wares as are esteemed by the wild people in those parts, cloathing, implements, furniture, cattle, horses, mares, and all other things necessary for the said colony, and for their use and defence, and trade with the people there, and in

passing and returning to and from the same. Also we do, for us, our heirs and successors, declare by these presents, that all and every the persons, which shall happen to be born within the said province, and every of their children and posterity, shall have and enjoy all liberties, franchises, and immunities of free denizens, and natural-born subjects, within any of our dominions, to all intents and purposes, as if they had been abiding and born within this our kingdom of Great Britain, or any other of our dominions. And for the greater ease and encouragement of our loving subjects, and such others as shall come to inhabit in our said colony, we do, by these presents, for us, our heirs and successors, grant, establish and ordain, that for ever hereafter there shall be a liberty of conscience allowed in the worship of God, to all persons inhabiting, or which shall inhabit, or be resident within our said province; and that all such persons (except Papists) shall have a free exercise of their religion, so they be contented with the quiet and peaceable enjoyment of the same, not giving offence or scandal to the government. And our further will and pleasure is, and we do hereby for us, our heirs and successors, declare and grant, that it shall and may be lawful for the said common council, or the major part of them assembled for that purpose, in the name of the corporation, and under their common seal, to distribute, convey, assign and set over such particular portions of the lands, tenements, and hereditaments, by these presents granted to the said corporation, unto such of our loving subjects, natural-born, or denizens, or others that shall be willing to become our subjects, and live under our allegiance in the said colony, upon such terms, and for such estates, and upon such rents, reservations, and conditions, as the same may lawfully be granted, and as to the said common council, or the major part of them so present, shall seem fit and proper. Provided always, that no grant shall be made of any part of the said lands unto any person, being a member of the said corporation, or to any other person in trust for, or for the benefit of any member of the said corporation; and that no person having any estate or interest in law or equity in any part of the said land, shall be capable of being a member of the said corporation, during the continuance of such estate or interest. Provided also, that no greater quantity of the said land be granted either entirely, or in parcels, to, or to the use of, or in trust for, any one person, than five hundred acres; and that all grants made contrary to the true intent and meaning hereof shall be absolutely null and void. And we do hereby grant and ordain, that such person and persons for the time being, as shall be thereunto appointed by the said corporation, shall and may, at all times, and from time to time hereafter, have full power and authority to administer and give the oaths appointed by an act of parliament made in the first year of the reign of our late royal father, to be taken instead of the oaths of allegiance and supremacy, and also the oath of abjuration, to all and every person and persons which shall at any time be inhabiting or residing within our said colony, and in like cases to administer

General denization of all persons that shall be born in that province.

Liberty of conscience and free exercise of their religion to all persons, except Papists.

Power to assign portions of land to persons who are willing to become planters.

No one person may have more than 500 acres.

State oaths or solemn affirmations to be administered to all persons who shall inhabit the said province.

Power to
erect courts
of judica-
ture.

Convey-
ances of
lands in the
aforesaid
province
made by
the afore-
said corpo-
ration, shall
be register-
ed by them.

the solemn affirmation to any of the persons commonly called Quakers, in such manner as by the laws of our realm of Great Britain the same may be administered. And we do of our further grace, certain knowledge, and mere motion, grant, establish and ordain, for us, our heirs and successors, that the said corporation, and their successors, shall have full power and authority, for and during the term of one-and-twenty years, to commence from the date of these our letters patent, to erect and constitute judicatures and courts of record, or other courts, to be held in the name of us, our heirs and successors, for the hearing and determining of all manner of crimes, offences, pleas, processes, complaints, actions, matters, causes, and things whatsoever, arising or happening within the said province of Georgia, or between persons inhabiting or residing there, whether the same be criminal or civil, and whether the said crimes be capital or not capital, and whether the said pleas be real, personal or mixed, and for awarding and making out executions thereupon; to which courts and judicatures we do hereby for us, our heirs and successors, give and grant full power and authority from time to time to administer oaths for the discovery of truth in any matters in controversy, or depending before them, or the solemn affirmation to any of the persons commonly called Quakers, in such manner as by the laws of our realm of Great Britain the same may be administered. And our further will and pleasure is, that the said corporation, and their successors, do from time to time, and at all times hereafter, register, or cause to be registered, all such leases, grants, plantings, conveyances, settlements, and improvements whatsoever, as shall at any time hereafter be made by or in the name of the said corporation, of any lands, tenements, or hereditaments within the said province, and shall yearly send or transmit, or cause to be sent or transmitted, authentic account of such leases, grants, conveyances, settlements, and improvements respectively, unto the auditor of the plantations for the time being, or his deputy, and also to our surveyor, for the time being, of our said province of South Carolina; to whom we do hereby grant full power and authority, from time to time, as often as need shall require, to inspect and survey such of the said lands and premises, as shall be demised, granted, and settled as aforesaid; which said survey and inspection we do hereby declare to be intended to ascertain the quit rents which shall from time to time become due to us, our heirs and successors, according to the reservation herein before mentioned, and for no other purpose whatsoever; hereby for us, our heirs and successors, strictly injoining and commanding that neither our or their surveyor, or any person whatsoever, under the pretext and colour of making the said survey or inspecting, shall take, demand, or receive any gratuity, fee or reward, of or from any person or persons inhabiting in the said colony, or from the said corporation or common council thereof, on the pain of forfeiture of their office, or offices, and incurring our highest displeasure. Provided always, and our further will and pleasure is, that all leases, grants, and conveyances to be made by or in the name of the said corporation, of any lands within the

said province, or a memorial containing the substance and effect thereof, shall be registered with the auditor of the plantations of us, our heirs or successors, within the space of one year to be computed from the date thereof, otherwise the same shall be void. And our further will and pleasure is, that the rents, issues, and all other profits, which shall at any time hereafter come to the said corporation, issuing or arising out or from the said province, or out of or from any part or parcel of the same, shall, from time to time, and at all times hereafter, be laid out and applied in such expences, and in such manner, as the said common council of the said corporation, or the major part of such of them as shall be present at any meeting for that purpose assembled, shall think will most improve and enlarge the said colony, and best answer the good purposes herein before mentioned, and for defraying all other charges about the same. And our will and pleasure is, that that the said corporation, and their successors, shall, from time to time, give unto one of the principal secretaries of state, and to the commissioners of trade and plantations, accounts of the progress of the said colony. And our will and pleasure is, that no act done at any meeting of the said common council of the said corporation shall be effectual and valid, unless eight members at least of the said common council, including the member who shall serve as chairman at the said meeting, be present, and the major part of them consenting thereunto. And our will and pleasure is, that the common council of the said corporation, for the time being, or the major part of them who shall be present, being assembled for that purpose, shall, from time to time, for, during, and until the full end and expiration of twenty-one years, to commence from the date of these our letters patents, have full power and authority to nominate, make, constitute, commission, ordain and appoint, by such name or names, style or styles, as to them shall seem meet and fitting, all and singular such governors, judges, magistrates, ministers, and officers, civil and military, both by sea and land, within the said district, as shall by them be thought fit and needful to be made or used for the government of the said colony (save always and except such officers only as shall by us, our heirs and successors, be from time to time constituted and appointed for the managing, collecting, and receiving such revenues as shall, from time to time, arise within the said province of Georgia, and become due to us, our heirs, and successors) provided always, and it is our will and pleasure, that every governor of the said province of Georgia, to be appointed by the common council of the said corporation, before he shall enter upon or execute the said office of governor, shall be approved by us, our heirs, or successors, and shall take such oaths, and shall qualify himself in such manner, in all respects, as any governor or commander in chief of any of our colonies or plantations in America are by law required to do; and shall give good and sufficient security for observing the several acts of parliament relating to trade and navigation, and to observe and obey all instructions that shall be sent to him by us, our heir, and successors, or any acting under our or their authority, pursuant to the said acts, or

Power for
twenty-one
years to ap-
point gover-
nor, &c.

any of them. And we do by these presents, for us, our heirs, or successors, will, grant, and ordain, that the said corporation, and their successors, shall have full power, for and during, and until the full end and term of one-and-twenty years, to commence from the date of these our letters patents, by any commander, or other officer or officers, by them for that purpose, from time to time, appoint to train, instruct, exercise, and govern a militia for the special defence and safety of our said colony, to assemble in martial array, and put in warlike posture, the inhabitants of the said colony, and to lead and conduct them, and with them to encounter, expulse, repel, resist, and pursue, by force of arms, as well by sea as by land, within or without the limits of our said colony, and also to kill, slay, destroy, and conquer, by all fitting ways, enterprizes, and means whatsoever, all and every such person and persons as shall at any time hereafter, in an hostile manner, attempt or enterprize the destruction, invasion, detriment, or annoyance of our said colony; and to use and exercise the law martial in time of actual war, invasion, or rebellion, in such cases where, by the law, the same may be used or exercised; and also, from time to time, to erect forts, and fortify any place or places within our said colony, and the same to furnish with all necessary ammunition, provision, and stores of war, for offence and defence; and to commit, from time to time, the custody and government of the same to such person or persons as to them shall seem meet, and the said forts and fortifications to demolish at their pleasure; and to take and surprise, by all ways and means whatsoever, all and every such person or persons, with their ships, arms, ammunition, and other goods, as shall in an hostile manner invade, or attempt the invading, conquering, or annoying of our said colony. And our will and pleasure is, and we do hereby, for us, our heirs, and successors, declare and grant, that the governor or commander in chief of the province of South Carolina, for us, our heirs, and successors, for the time being, shall at all times hereafter have the chief command of the militia of our said province hereby erected and established; and that such militia shall observe and obey all orders and directions that shall from time to time be given or sent to them by the said governor or commander in chief; any thing in these presents before contained to the contrary thereof, in any wise, notwithstanding. And of our especial grace, certain knowledge, and mere motion, we have given and granted, and by these presents, for us, our heirs, and successors, do give and grant, unto the said corporation, and their successors, full power and authority to import and export their goods, at and from any port or ports that shall be appointed by us, our heirs, or successors, within the said province of Georgia, for that purpose, without being obliged to touch at any other port in Carolina. And we do by these presents, for us, our heirs, and successors, will and declare, that from and after the determination of the said term of one-and-twenty years, such form of government and method of making laws, statutes, and ordinances, for the better governing and ordering the said province of Georgia, and the inhabitants

thereof, shall be established and observed within the same, as we, our heirs or successors, shall hereafter ordain or appoint, and shall be agreeable to law; and that from and after the determination of the said term of one-and-twenty years, the governor of our said province of Georgia, and all officers, civil and military, within the same, shall, from time to time, be nominated, constituted, and appointed by us, our heirs and successors. And lastly, we do hereby for us, our heirs and successors, grant unto the said corporation, and their successors, that these our letters patents, or the enrolment or exemplification thereof, shall be in and by all things good, firm, valid, sufficient, and effectual in the law, according to the true intent and meaning thereof, and shall be taken, construed, and adjudged in all our courts, and elsewhere, in the most favourable and beneficial sense, and for the best advantage of the said corporation, and their successors; any omission, imperfection, defect, matter, cause or thing whatsoever, to the contrary in any wise notwithstanding. In witness whereof, we have caused these our letters to be made patents. Witness ourself at Westminster, the ninth day of June, in the fifth year of our reign.

By Writ of Privy Seal.

(Signed)

COCKS.

THE END.

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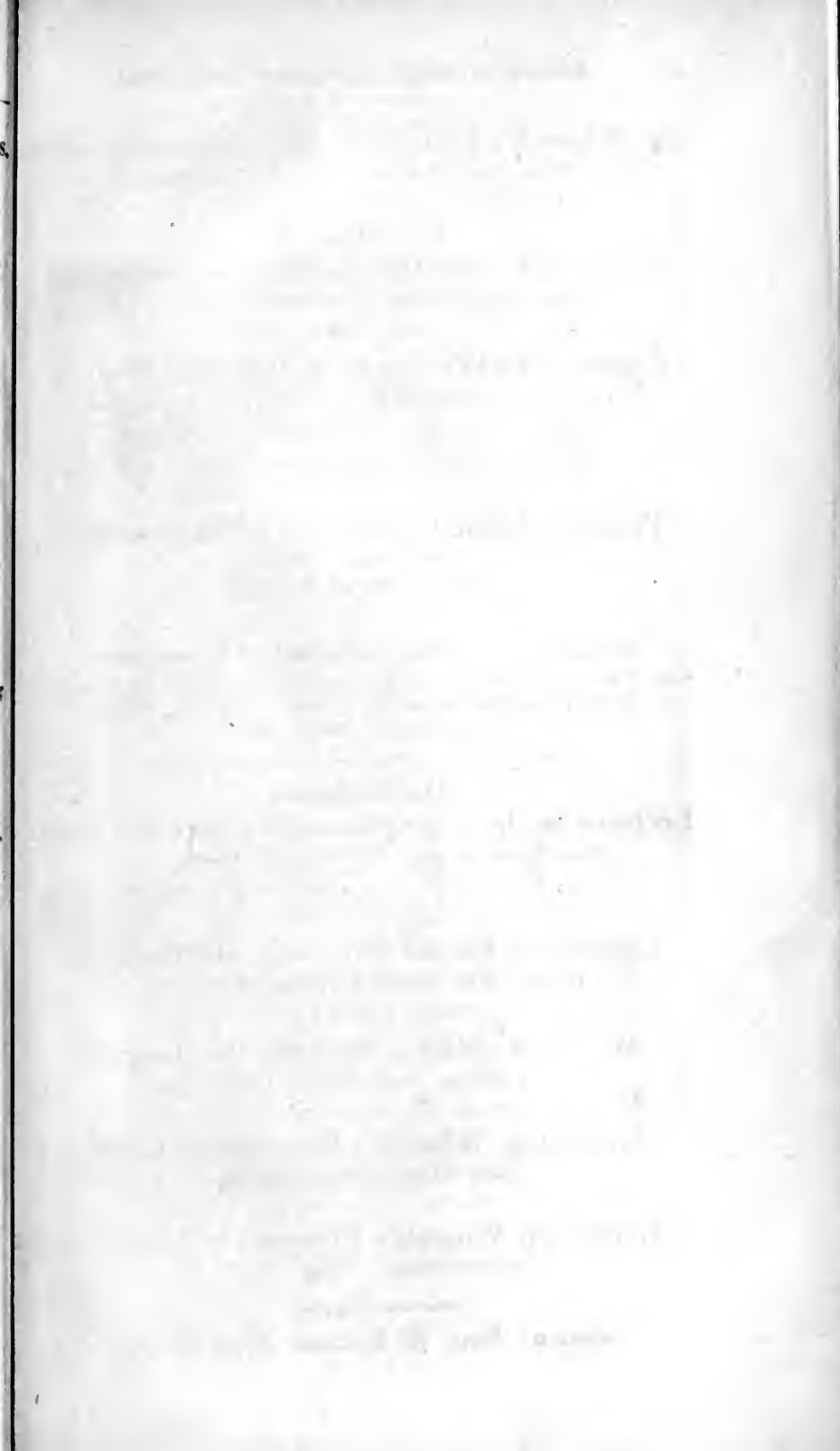
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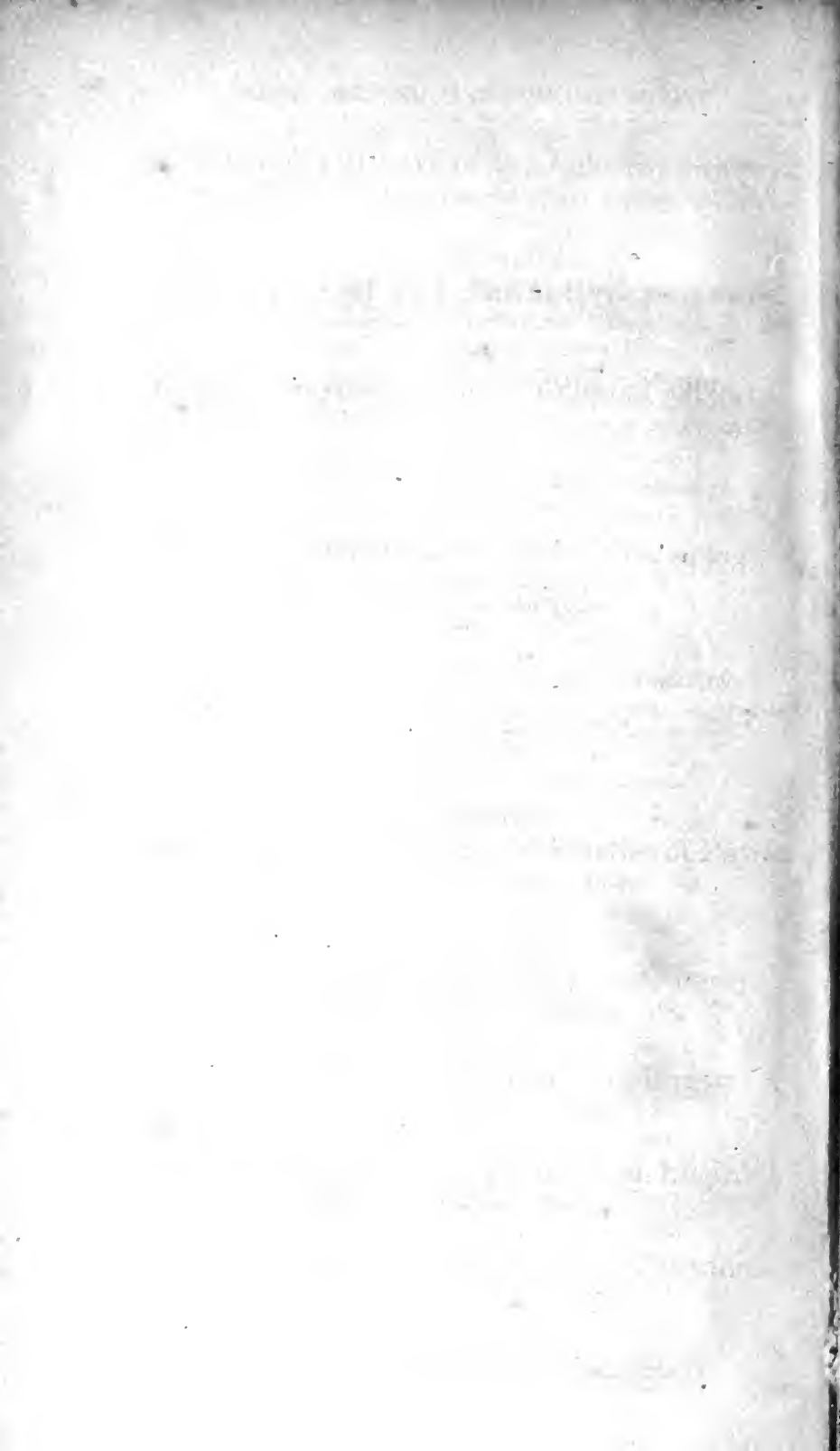
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